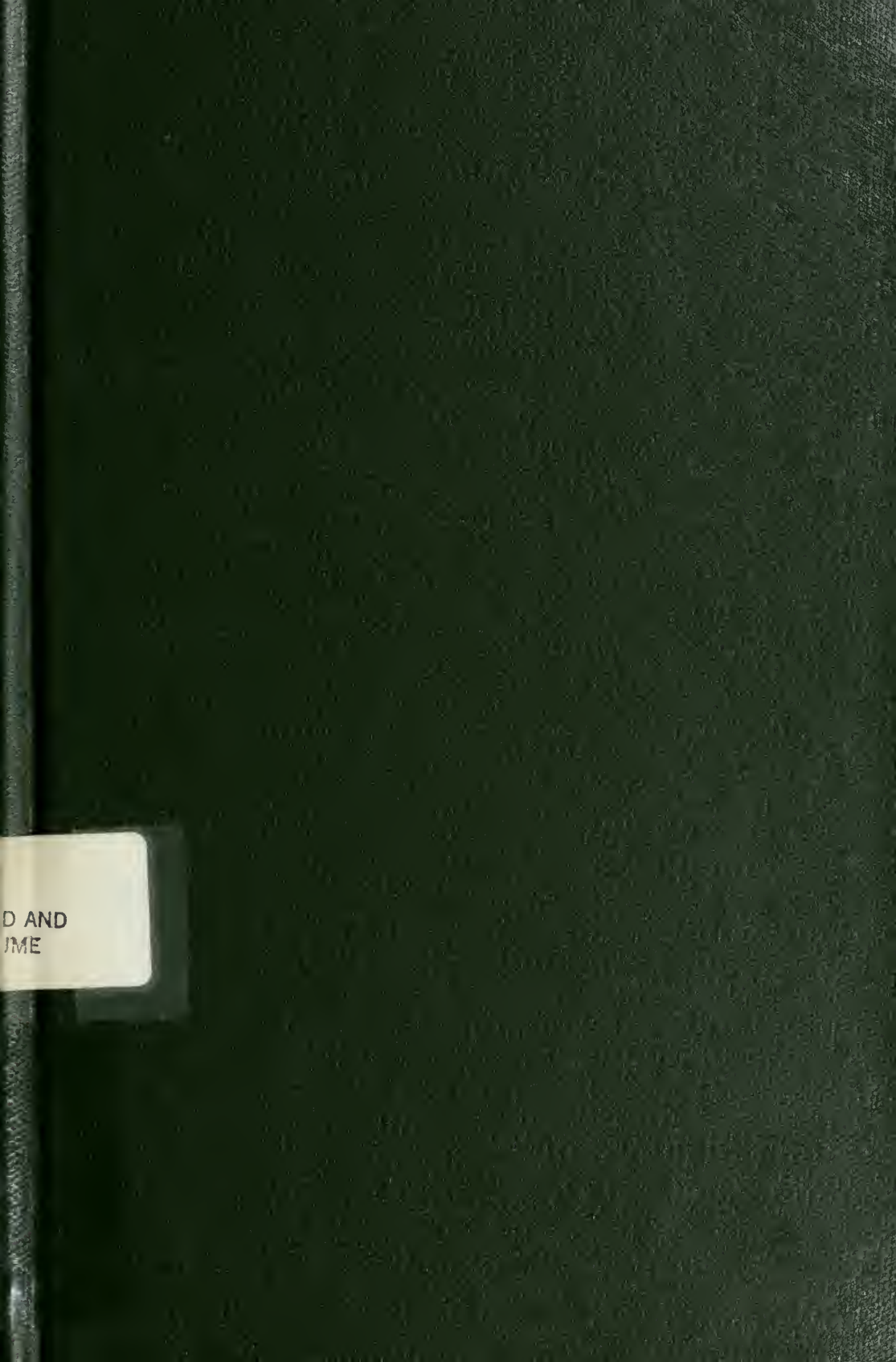
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CHARTER

OF THE

City and County of San Francisco

As Adopted March 26, 1931, (in effect, January 8, 1932,)
with Amendments to and including January 11, 1943

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HISTORY OF LEGISLATION

Ratified by the vote of the People March 26, 1931; ratified by the Legislature of the State, April 13, 1931; in effect January 8, 1932; Amended by vote of the People, November 8, 1932; ratified by the Legislature, January 12, 1933. Amended by vote of the People, November 6, 1934; ratified by the Legislature, January 26, 1935. Amended by vote of the People, May 2, 1935: ratified by the Legislature, May 17, 1935. Amended by vote of the People, March 9, 1937; ratified by the Legislature, April 14, 1937. Amended by vote of the People, November 2, 1937; ratified by the Legislature, March 12, 1938. Amended by vote of the People, November 7, 1939; ratified by the Legislature, February 8, 1940. Amended by vote of the People, May 7, 1940; ratified by the Legislature, January 20, 1941. Amended by vote of the People, November 5, 1940; ratified by the Legislature, January 21, 1941. Amended by vote of the People, November 4, 1941; ratified by the Legislature, December 22, 1941. Amended by vote of the People, November 3, 1942; ratified by the Legislature, January 11, 1943.

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THE CITY AND COUNTY AND ITS POWERS

Name and Boundaries of City and County

SECTION 1. The City and County of San Francisco shall continue as a municipal corporation known by name as San Francisco. The boundaries of the municipal corporation are those set forth in the Political Code of California and as such may be extended as provided by law.

Powers of the City and County

SECTION 2. The City and County of San Francisco shall have perpetual succession; may appear, sue and defend in all courts and places in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may, subject to the restrictions contained in this charter, purchase, receive, hold and enjoy, sell, lease and convey real and personal property; receive bequests, gifts and donations of all kinds of property in fee simple, or in trust for charitable and other purposes; and do all acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust.

All rights and titles to property, all rights and obligations under contracts or trusts, and all causes of action of any kind in any court or tribunal vested in the City and County of San Francisco or in any officer or employee thereof in his official capacity, at the time this charter becomes effective, as well as all liabilities in contract or tort and causes of action involving the same in so far as they affect the city and county or any officer or employee thereof in his official capacity which shall be outstanding, at the time this charter becomes effective, shall continue without abatement or modification by reason of any provision hereof.

All ordinances or resolutions in force at the time this charter takes effect and not inconsistent therewith shall continue in force until amended or repealed. All public improvements or other proceedings legally authorized under the charter superseded by this charter shall be carried to completion under previously existing laws or under this charter. The powers or duties vested in city and county officers, boards or commissions by law or under the charter superseded by this charter shall be exercised, continued and carried out by their successors or by other city and county officers, boards or commissions, consistent with the provisions of this charter.

All functions of the city and county, and the powers and duties of officers and employees charged with the performance thereof, as these shall have been apportioned among departments and offices, and institutions, utilities, bureaus or other subdivisions thereof, as existing at the time this charter shall go into effect, shall continue to be the functions of such departments and offices and the powers and duties of officers and employees assigned thereto, except as in, or under authority

of, this charter otherwise specifically provided. The legally authorized officers and employees of each of said departments and offices or subdivisions thereof shall continue as the officers and employees of said departments and offices or subdivisions thereof, subject to the conditions governing their respective appointments to such positions, and except as in this charter otherwise provided; and where part of the functions and duties of any department or office are, by this charter, transferred or placed in any other department or office, the persons performing such functions and duties, shall be transferred therewith. The compensations legally authorized for the several officers and employees shall be continued subject to the other provisions of this charter.

The city and county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, officers and employees, and shall have all rights and powers appropriate to a county, a city, and a city and county, subject only to the restrictions and limitations provided in this charter, including the power to acquire and construct plants, works, utilities, areas, highways and institutions outside the boundaries of the city and county, and maintenance and operation of the same, and the exercise of functions or maintenance of services outside the boundaries of the city and county, including the expenditure of funds therefor through any agency. The specification or enumeration in this charter of particular powers shall not be exclusive. The exercise of all rights and powers of the city and county when not prescribed in this charter shall be as provided by ordinance or resolution of the board of supervisors. *Refer to Digest.*

General Law Procedure

SECTION 3. Where a procedure for the exercising of any rights or powers belonging to a city, or a county, or a city and county is provided by statute of the State of California, said procedure shall control and be followed unless a different procedure is provided in, or by ordinance enacted under authority of, this charter. *Refer to Digest.*

ELECTIVE AND APPOINTIVE OFFICERS

City and County Officers

SECTION 4. The officers of the city and county shall be the officers elected by vote of the people, members of the board of education, members of boards and commissions appointed by the mayor, members of the juvenile probation and adult probation boards or committees, members of the board of law library trustees, the superintendent of schools, the clerk of the municipal court, the secretary and jury commissioner of the superior court, the executive appointed by each board or commission as the chief executive officer under such board or commission, the controller, the chief administrative officer, the head of each department under the chief administrative officer and the coroner, public administrator, county clerk, tax and license collector, recorder, registrar of voters, hor-

ticultural commissioner, sealer of weights and measures, and such other officers as may hereafter be provided by law or so designated by ordinance.

Elective Officers and Terms

SECTION 5. The mayor, the members of the board of supervisors, an assessor, a district attorney, a city attorney, a sheriff, a treasurer, a public defender, and municipal court judges shall be elected by the voters of the city and county. At the general municipal election in 1943, and at the general municipal election in every fourth year thereafter, there shall be elected a mayor, six supervisors, a district attorney and a sheriff, and at the general municipal election in 1945, and at the general municipal election in every fourth year thereafter, there shall be elected five supervisors, a city attorney, and a treasurer, and at the general election in 1942, and at the general election in every fourth year thereafter there shall be elected an assessor and a public defender. All of the aforesaid officials shall be elected for a term of four years from the commencement of their respective terms as herein specified. The term of the assessor who shall hold office on the 8th day of January, 1943, shall expire at twelve o'clock noon on said date, and the person elected assessor at the general election in 1942 shall succeed to said office at twelve o'clock noon on said 8th day of January, 1943.

At the general municipal election in 1943, there shall be elected four municipal court judges to succeed those judges whose respective terms of office expire on the 8th day of January, 1944, and at the general municipal election in each sixth year after 1943 the successors to said four municipal court judges shall be elected, and at the general municipal election in 1945 there shall be elected four municipal court judges to succeed those judges whose respective terms of office expire on January 8, 1946, and at the general municipal election in each sixth year after 1945, the successors to said last mentioned judges shall be elected, and at the general municipal election in 1947, there shall be elected four municipal court judges to succeed those judges whose respective terms of office expire on the 8th day of January, 1948, and at the general municipal election in each sixth year after 1947, the successors to said last mentioned judges shall be elected. The term of each municipal court judge shall be six years from and after twelve o'clock noon on the 8th day of January following his election. All terms of office of elective officials shall begin at twelve o'clock noon on the 8th day of January following the date of their election.

Any appointive officer or employee of the city and county who shall become a candidate for election by the people to any public office shall automatically forfeit such city and county office or position.

No person elected as mayor or supervisor shall be eligible, for a period of one year after his last day of said service as mayor or supervisor, for appointment to any full time position carrying compensation in the city and county service.

Should this amendment not be approved by the Legislature of the State of California so that the office of assessor may be voted for at the general election to be held in November, 1942, as in this section provided, then in that event the term of the incumbent in the office of assessor at twelve o'clock noon on the 8th day of January, 1943 shall not expire at twelve

o'clock noon on said date, but shall continue until the 8th day of January, 1944, and the office of assessor shall be filled at the general municipal election in 1943, for a three year term from said date, and said office of assessor shall again be filled at the general election in 1946 for a four year term from said date, and at the general election in each fourth year thereafter. *Ratified by the Legislature,* December 22, 1941. *Refer to Digest.*

Absence from State, and Vacancies

SECTION 6. No officer of the city and county, except members of the police department acting under orders of the chief thereof, shall absent himself from the state, except by permission of the mayor and the board of supervisors. Violation of this section shall be sufficient cause for removal of any officer violating the same.

An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a crime involving moral turpitude, or of an offense involving a violation of his official duties, or is removed from office, or ceases to be a resident of the city and county, or neglects to qualify within the time prescribed by law, or within twenty days after his election or appointment, or shall have been absent from the state without leave for more than sixty consecutive days.

Qualifications of Officers and Employees

SECTION 7. No person shall be a candidate for any elective office, nor shall be appointed as a member of any board or commission or as an officer of the city and county unless he shall have been a resident of the city and county for a period of at least five years and an elector thereof for at least one year immediately prior to the time of his taking office, unless otherwise specifically provided in this charter. All employees of the city and county shall be citizens and shall have been residents thereof, for at least one year prior to the appointment, unless otherwise specifically provided in this charter, and members of the fire and police departments shall be citizens and shall have been residents of the city and county for at least five years next preceding appointment, and every elected officer, member of any board or commission and employee, including members of the fire and police departments, shall continue to be a resident of the city and county during incumbency of office or employment, and upon ceasing to be such resident, shall be removed from such office or employment; provided that where competent citizens who are residents of the city and county cannot be secured to fill positions outside of the city and county, then non-resident citizens may be appointed to fill such positions; and provided, also, that positions requiring expert or technical training may, on the recommendation of the department head and the mayor, and with the approval of the civil service commission and the board of supervisors, be exempted from the requirements of this section. A "resident" within the intent and purpose of this section, means one who actually lives within the city and county and maintains an abode therein, where such resident with his family, if any, customarily spends the night, provided, however, that

residence outside the confines of the city and county for a period not to exceed three months in any calendar year, or absence of a resident from the city and county upon any bona fide journey, whether for business or pleasure and for whatever length of time, or absence of a resident while in the performance of any duties as an elected or appointed official or employee of the State of California or the government of the United States, shall not be within the contemplation of this section; provided, however, that any officer or employee of the city and county may live outside the City and County of San Francisco upon the authorization of the director of health, filed in the office of the civil service commission, and granted on account of the ill health of said officer or employee or the ill health of a member of the immediate family of said officer or employee. *Ratified by the Legislature,* January 12, 1933. *Refer to Digest.*

Bonds of Officers and Employees

SECTION 8. Unless otherwise provided in this charter, all officers, and such employees as may be specified by ordinance, on the recommendation of the chief administrative officer or the board or commission concerned, shall give bond in such amounts as may be required by ordinance, provided that the minimum amount of bond to be furnished by the controller be $100,000; by the tax collector, $100,000; by the county clerk, $50,000; and by the public administrator, $50,000. The surety on such bonds shall always be such as is specified by and approved in the manner provided by ordinance. The supervisors may, by ordinance, provide for group bonding of officers and employees. The premiums on all official bonds shall be paid by the city and county.

Powers Vested in Board of Supervisors

SECTION 9. The powers of the city and county, except the powers reserved to the people or delegated to other officials, boards or commissions by this charter, shall be vested in the board of supervisors and shall be exercised as provided in this charter. The board of supervisors shall, ex officio, be the board of equalization for the city and county. It shall be the duty of the board of supervisors to canvass the vote cast at each election in the city and county, and certify the official count of such balloting. The supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the city and county and shall fix rates and schedules of compensation therefor in the manner provided in this charter. On the recommendation of the mayor and the chief administrative officer, the board of supervisors may create or abolish departments which are now or may hereafter be placed under the chief administrative officer or under commissions appointed by the mayor.

The board of supervisors may, by ordinance, confer on any officer, board or commission such other and additional powers as the board may deem advisable.

The board of supervisors, by ordinance, may provide medical care, hospitalization, compensation and such other benefits as the board may

deem necessary for regularly authorized volunteer civilian defense workers suffering injury arising out of and in the course of their activities as such civilian defense workers.

Whenever the board of supervisors by ordinance shall declare that the public interest demand a night university, municipally established, maintained and controlled, they shall submit the proposal to the people, and if approved by a majority of the electors voting thereon, the board of supervisors may by ordinance provide for the establishment, maintenance and control of such a night university having courses of instruction in advance of the instruction maintained in high schools or junior colleges. Said university shall have the power to grant academic degrees and shall be open to any resident of the city and county qualified to enter and pursue the courses of instruction therein given. *Ratified by the Legislature,* January 11, 1943. *Refer to Digest.*

Number, Compensation and Meetings of Supervisors

SECTION 10. The board of supervisors shall consist of eleven members elected at large, provided that for the period January 8, 1932, to January 8, 1934, the board shall consist of fifteen members. Each member of the board shall be paid a salary of twenty-four hundred dollars ($2,400) per year, and each shall execute an official bond to the city and county in the sum of five thousand dollars ($5,000).

At twelve o'clock noon on the 8th day of January next following their election, the newly elected and continuing members of the board of supervisors shall meet at the legislative chamber in the City Hall, and thereafter regular meetings shall be held as fixed by resolution. The supervisors constituting the new board shall, on January 8, 1932, and every second year thereafter, elect one of their number as president of the board for a two-year term. The president shall preside at all meetings, shall appoint all standing and special committees of the board and shall have such other powers and duties as the supervisors may provide.

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place. The board shall cause a calendar of the business scheduled for each meeting to be published and shall keep and publish a journal of its proceedings. Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

Suspension and Removal

SECTION 11. Any elective municipal officer, including municipal court judges, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such sus-

pended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of a crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part. *Ratified by the Legislature,* January 26, 1935. [*The method of appointment, terms of office, and compensation of judges of the municipal court are not subject to regulation by charter.* See Sect. 11, Art. VI, of the Constitution.]

LEGISLATIVE PROCEDURE

Clerk of the Board of Supervisors

SECTION 12. The board of supervisors shall appoint a clerk, who shall be designated as clerk of the board of supervisors and who shall, ex officio, be clerk of the board of equalization. The clerk shall have charge of the office and records of the board and its committees, and the personnel employed to handle the business, affairs and operations of the board, its committees and members when engaged in official duty. The clerk shall be the appointing officer for such personnel, subject to the civil service provisions of this charter. The clerk shall keep a journal of proceedings of the board and files of all ordinances and resolutions and properly index the same. He shall be responsible for the publication, as required by law, of ordinances, resolutions and other matters acted on by the board for which publication is specified. He shall have such other duties and responsibilities as the board shall prescribe.

Action by Resolution or Ordinance

SECTION 13. Action by the board of supervisors shall be by ordinance or resolution in writing introduced by a member or by a committee of said board and passed or adopted by a majority of all the members of the board at each reading. Every legislative act shall be by ordinance. The enacting clause of all ordinances shall be, "Be it ordained by the people of the City and County of San Francisco." Every ordinance and resolution, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, and ordinances making annual or supplemental appropriations shall be confined to the subject of appropriations. Any ordinance enacting or revising and re-enacting a complete municipal code for the city and county, which code shall supersede or repeal all general ordinances prior thereto, shall be construed to be confined to a single subject.

If any subject is embraced in an ordinance and is not expressed in the title thereof, the ordinance shall be void only as to so much thereof as is not expressed in the title. Any ordinance may be amended by an ordinance amending the particular sections thereof.

An ordinance shall be passed by the board of supervisors only after reference to and report thereon from committee, unless it be an ordinance prepared and reported out by committee, and after two readings and votes at separate meetings of the board, which meetings shall be at least ten days apart; provided, however, that as to an emergency measure as defined in section 16, reference to committee or the readings and votes at separate meetings may be waived by a three-fourths vote of all members of the board. The existing or impending emergency as defined in such ordinance shall be declared by specific section in such emergency ordinance. No other resolution shall be adopted by the board of supervisors on the date of its introduction and without reference to committee, except by the unanimous consent of the supervisors present. The annual appropriation ordinance shall be passed only after two readings, not less than five days apart, and the second or final passage shall be not less than fifteen days after the introduction of each such ordinance.

No ordinance granting a franchise shall be finally passed within ninety days of its introduction.

Except as otherwise provided in this charter, or by ordinance, notice of the title or the purport and subject matter of each proposed ordinance which is introduced and referred to committee shall be published within three days after its presentation to the board and a copy of such proposed ordinance shall be kept available for inspection in the office of the clerk of the board. All ordinances shall be published upon passage for second reading. Emergency ordinances shall be published immediately on passage. Ordinances passed to codify, rearrange and publish existing ordinances, as provided for in section 17, shall not require publication. The term "published" as used in this charter shall mean publication in the official newspaper as required by charter. The official newspaper is hereby defined to be a daily newspaper of general circulation,

published in the city and county and which has a bona fide daily circulation of at least 8,000 copies.

The vote on all ordinances and resolutions upon each reading shall be by ayes and noes. The vote by ayes and noes on all measures shall be recorded in the journal of the proceedings of the board. *Ratified by the Legislature*, January 26, 1935. *Refer to Digest.*

Approval by Mayor—Reconsideration and Veto

SECTION 14. Each proposed resolution or ordinance voted on by the supervisors and failing of passage and each ordinance or resolution adopted by the supervisors shall, within twenty-four hours of such action, be transmitted to the mayor by the clerk of the board, with appropriate notation of the action of the board thereon. Any resolution acted upon by the board of supervisors by unanimous consent of those present on the date of the introduction of such resolution and any ordinance adopted by the board as an emergency measure shall be acted upon by the mayor within three days after receipt thereof by him from the clerk of the board. All other ordinances or resolutions shall be acted upon by the mayor within ten days of such receipt.

The mayor shall either approve each resolution or ordinance adopted by the supervisors by signing and returning same to the clerk of the board within the time limit, or he shall disapprove and veto any resolution or ordinance, or veto or reduce any separate appropriation item therein and shall return each such resolution or ordinance to the clerk of the board with his written objections within the time limit. His failure to make such return shall constitute approval and such ordinance or resolution shall take effect without the mayor's signed approval. The clerk of the board shall note such fact on the official copy of such resolution or ordinance. If any separate appropriation item in any resolution or ordinance is vetoed or reduced by the mayor as herein provided, the remainder of any such ordinance or resolution may be approved by the mayor and, if not specifically approved by the mayor, shall take effect without such approval and shall be so noted by the clerk of the board.

The board of supervisors may reconsider any resolution or ordinance vetoed or disapproved, or any separate appropriation item vetoed or reduced by the mayor, and if, after such reconsideration, two-thirds of all the members of the board shall vote in favor of passage thereof, it shall become effective notwithstanding the mayor's veto. If a larger vote is required for the adoption of a measure by the provisions of this charter, such larger vote shall be required to overcome the veto of the mayor. The vote of reconsideration of each such vetoed resolution, ordinance or separate appropriation item therein shall be taken at the convenience of the board. If the ordinance, resolution or separate appropriation item is not passed over the mayor's veto within thirty days, the measure or item shall be lost.

In the event of any absence of the mayor for which he or the board of supervisors has failed to designate an acting mayor, no resolution or ordinance adopted by the board of supervisors shall take effect by reason

of the failure of the mayor to approve, or disapprove, and return such resolution or ordinance within the time limits applicable thereto, and, in such case, the time periods or limitations as fixed by this section shall not start until an acting mayor is appointed by the mayor or elected by the supervisors, as in this charter provided, or the return of the mayor.

Any proposed resolution or ordinance voted on by the board of supervisors and failing of passage shall be reconsidered by the board on the written request of the mayor, stating his reasons therefor, filed with the clerk of the board by the mayor within ten days of the board's action on such resolution or ordinance. The board shall reconsider such measure at its convenience, but not later than thirty days after the filing of the mayor's request therefor.

Record, Publication and Effect of Ordinances and Resolutions

SECTION 15. All ordinances, after final passage or upon their becoming effective shall be certified by the clerk of the board and recorded in a book kept for that purpose, and resolutions adopted shall be certified and recorded in like manner. Except in case of an emergency measure passed and not previously published, and except as otherwise specified in this charter, publication of ordinances and resolutions in full shall not be required after final passage. Notice that an ordinance or resolution has passed or become final shall be published once within five days of such final passage. To amend an ordinance which has proceeded to second reading shall require publication of the ordinance as amended and proceeding de novo.

Emergency Measures and Effective Date of Ordinances

SECTION 16. No ordinance which is subject to the referendum provisions of this charter shall become effective until thirty days after its passage. Ordinances granting any public utility franchise or privilege shall not become effective until sixty days after their passage. Other ordinances shall not become effective until ten days after their passage unless enacted by a three-fourths vote of all the members of the board as an emergency measure as defined in this section. No ordinance affecting franchises, grants, bond issues or the sale, lease or purchase of land shall ever be passed as an emergency measure, and the people by initiative or referendum ordinance may further restrict the matters that may be passed as emergency measures. Immediate necessary preservation of public peace, property, health or safety, provision for the uninterrupted operation of any city and county department or office, or action required to comply with time limitations as established by law, shall be emergencies within the meaning hereof; provided, however, that such emergency shall actually exist and shall be specifically stated and defined in such ordinance, and shall be specifically voted on as provided in section 13 of this charter. *Ratified by the Legislature,* May 17, 1935.

Codification and Rearrangement of Ordinances

SECTION 17. Ordinances previously adopted and continuing in force

may be codified and rearranged, and thereupon shall be published in book form. Provision for codification and rearrangement may be made in one ordinance containing one or more subjects. Such publication shall constitute publication of the ordinance or several ordinances contained in each book or pamphlet so published. Any such publication shall contain a joint certificate of the mayor, the clerk of the board of supervisors and the city attorney of the correctness of such arrangement and publication. With any publication of the charter, there shall be included initiative ordinances and digests of reported court decisions relating to said charter and ordinances.

GENERAL POWERS AND DUTIES OF BOARDS, COMMISSIONS, DEPARTMENT HEADS AND OFFICERS

Powers and Duties of County Officers

SECTION 18. Each county officer shall have all the powers conferred and shall discharge all the duties imposed by general laws upon said officer of a county or a city and county of this state, and shall have such other powers and duties as in this charter specifically provided.

Powers and Duties of Boards and Commissions

SECTION 19. The board of supervisors and each board and commission appointed by the mayor, or otherwise provided by this charter, shall have powers and duties as follows:

(a) To prescribe reasonable rules and regulations not inconsistent with this charter for the conduct of its affairs, for the distribution and performance of its business, for the conduct and government of its officers and employees, and for the administration, custody and protection of property under its control and books, records and papers appertaining to its affairs. The board of supervisors, by ordinance, may provide that rules and regulations of any board or commission, or general orders of any department head issued by authority of any board or commission that are of general public concern shall be published or posted.

(b) To appoint one of its members as president to hold office for such term as each such board or commission by its rules or regulations, not inconsistent with this charter, may prescribe.

(c) To establish such standing or special committees as it shall deem necessary.

(d) To receive, on behalf of the city and county, gifts, devises and bequests for any purpose connected with or incidental to the department or affairs placed in its charge, and to administer, execute and perform the terms and conditions of trusts or any gift, devise or bequest which may be accepted by vote of the people or by the board of supervisors for the benefit of such department or purpose, and to act as trustees, under any such trust, when so authorized to do by the board of supervisors. The title to all real and personal property now owned or hereafter acquired by gift, devise, bequest or otherwise, by and for

the purposes of any board or commission shall vest in the city and county.

(e) To require such periodic or special reports of departmental operations, costs and expenditures under its control as may be necessary and, exclusive of the board of supervisors, to submit an annual report to the mayor.

(f) To hold meetings at regular fixed dates and at regular meeting places, which dates or places shall not be changed except as in the manner provided by section 10 for the meeting times and places of the board of supervisors. All such meetings shall be open to the public.

(g) To hold special meetings for the purposes and in the manner provided by the board of supervisors by ordinance, provided that no matter may be considered at any special meeting unless specifically designated in the notice calling such special meeting.

(h) To appoint a secretary, a superintendent, or other executive to be the administrative head of the affairs under its control, who, unless otherwise specifically provided, shall not be subject to the civil service provisions of this charter, and shall hold office at its pleasure.

(i) To require a bond or other security from each such executive officer and from any employee in such form as the board of supervisors may authorize and in such amount as the mayor, on the recommendation of the controller, may approve, the premiums on such bonds to be paid by the city and county.

A quorum for the transaction of official business shall consist of a majority of all the members of each board or commission, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to penalties to be provided by ordinance. A majority, two-thirds, three-fourths, or other vote specified by this charter for any board or commission shall mean a majority, two-thirds, three-fourths, or other vote of all the members of such board or commission. Each board or commission shall keep a record of the proceedings at each meeting and a copy thereof shall be forwarded promptly to the mayor.

Powers and Duties of Department Heads

SECTION 20. Each elective officer in charge of an administrative office, the chief executive appointed by each board or commission, the controller, the chief administrative officer, and each department head appointed by the chief administrative officer shall have the powers and duties of a department head, except as otherwise specifically provided in this charter.

Each appointive department head shall be immediately responsible to the chief administrative officer or the board or commission, as the case may be, for the administration of his department, and shall file an annual report and make such other reports, estimates and recommendations at the time and in the manner required by law, or as required by the chief administrative officer, board or commission.

He shall act as the "appointing officer" under the civil service provisions of this charter for the appointing, disciplining and removal of

such officers, assistants and employees as may be authorized. On the written recommendation of the department head concerned and the approval of the chief administrative officer, board or commission to whom such department head is responsible, the head of any utility, institution, bureau or other subdivision of such department may be designated as the "appointing officer" for such utility, institution, bureau or other subdivision. Non-civil service appointments and any temporary appointments in any department or subdivision thereof, and all removals therefrom shall be made by the department head or bureau head designated as the appointing officer only with the approval of the chief administrative officer or the board or commission in charge, as the case may be.

He shall issue or authorize all requisitions for the purchase of materials, supplies and equipment required by such department, provided that, on the written approval of the chief administrative officer or the board or commission in charge of any department, the head of any utility, institution, bureau or other subdivision of a department may likewise be vested with such power. Each department head or the head of a utility, institution, bureau or other subdivision of each department shall be responsible for the proper checking of all materials, supplies and equipment ordered for its purposes, and for the approval or disapproval of bills for claims rendered for such materials, supplies or equipment.

The head of any department, through the chief administrative officer or the board or commission in charge thereof shall recommend to the board of supervisors such ordinances as may be required to carry out the powers vested and the duties imposed, and to establish or readjust fees or charges for permits issued to or work performed for persons, firms or corporations when these are subject to his or its jurisdiction.

Each department head may suggest the creation or positions subject to the provisions of this charter, and may reduce the forces under his jurisdiction to conform to the needs of the work for which he is responsible, any other provision of this charter to the contrary notwithstanding.

The mayor, the chief administrative officer, or the board or commission concerned, on the recommendation of any department head, or on his or its own motion, may combine or may transfer and redistribute among departments or offices under his or its authority, respectively, any function or duty assigned to or continued by this charter in any department.

Power of Hearing, Inquiry and Subpoena

SECTION 21. The mayor, the board of supervisors, the chief administrative officer, the controller, or any board or commission appointed by the mayor relative solely to the affairs under its control, may require such periodic or special reports of departmental costs, operation and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the city and county, and for that purpose may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. It shall be the duty of the chief of police to designate a police officer to serve subpoenas. Any per-

son refusing to obey such subpoena and the other requirements hereof, or to produce such books, shall be deemed in contempt and subject to proceedings and penalties as provided by general law in such instances.

Non-interference in Administrative Affairs

SECTION 22. Except for the purpose of inquiry, the mayor and the board of supervisors shall deal with the administrative service for which the chief administrative officer is responsible, solely through such officer, and for administrative or other functions for which elective officials or boards or commissions are responsible, solely through the elective official, the board or commission or the chief executive officer of such board or commission concerned. Except for the purpose of inquiry, each board or commission, in its conduct of administrative affairs under its control, shall deal with such matters solely through its chief executive officer.

Neither the board of supervisors, nor its committees, nor any of its members shall dictate, suggest or interfere with appointments, promotions, compensations, disciplinary actions, contracts, requisitions for purchases or other administrative recommendations or actions of the chief administrative officer, or of department heads under the chief administrative officer, or under the respective boards and commissions. The board of supervisors, and each board or commission relative to the affairs of its own department, shall deal with administrative matters only in the manner provided by this charter, and any dictation, suggestion or interference herein prohibited on the part of any supervisor or member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the power of hearing and inquiry as provided in this charter. *Refer to Digest.*

Administrative Code

SECTION 23. The powers and duties of the departments and offices which by this charter are established or continued as departments or offices under elective officers, boards or commissions or the chief administrative officer, as such powers and duties exist at the time this charter shall go into effect, shall be continued as powers and duties of each such department or office, except as otherwise provided in this charter.

The board of supervisors may enact and provide for the publication in printed form of an administrative code, which shall specify or detail the powers, duties, methods and procedure in the several departments and offices.

Permits and Inspections

SECTION 24. The board of supervisors shall regulate, by ordinance, the issuance and revocation of licenses and permits for the use of, obstruction of or encroachment on public streets and places, exclusive of the granting of franchises governed by other provisions of this charter; and for the operation of businesses or privileges which affect the health, fire-prevention, fire-fighting, crime, policing, welfare or zoning conditions of or in the city and county, and for such other matters as the board of supervisors may deem advisable.

Such ordinance shall fix the fees or licenses to be charged, which shall not be less than the cost to the city and county of regulation and inspection; provided, that in so far as the regulation and inspection of foodstuffs or articles of food for human consumption are concerned, the fees or licenses to be charged for such regulation and inspection shall be as determined by the board of supervisors, but the same shall not exceed the cost of said regulation and inspection. Said ordinance shall also specify which department shall make the necessary investigations and inspections and issue or deny and may revoke the permits and licenses therefor. The chief of police in the performance of police duties shall have power to examine at any time the books and the premises of pawnbrokers, peddlers, junk and second-hand dealers, auctioneers and other businesses designated by the board of supervisors, and the tax collector shall have power to examine the books of any business for which a license is issued and a fee charged on the basis of the receipts of such business, and for these purposes such officials shall have the power of inquiry, investigation and subpoena, as provided by this charter.

Permits and licenses shall be issued by the departments as designated by ordinance, only after formal application for such permit or license. No such permit or license that is dependent on or affected by the zoning, set-back or other ordinances of the city and county administered by the city planning commission shall be issued except on the prior approval of the city planning commission. If any application for a permit or license is denied by the department authorized to issue same, the applicant may appeal to the board of permit appeals.

No license tax shall be imposed on any seller or manufacturer of goods, wares or merchandise operating at a fixed place of business in the city and county, except such as require permits or licenses in accordance with or under authority of any local health, sanitary or other ordinance under the police power. *Ratified by the Legislature,* April 14, 1937. *Refer to Digest.*

POWERS AND DUTIES OF ELECTIVE OFFICERS

The Mayor

SECTION 25. The mayor shall be the chief executive officer of the city and county upon whom process issued by authority of law shall be served. He shall be an elective officer and shall be paid a salary of ten thousand dollars ($10,000) per year. He shall furnish an official bond in the sum of twenty-five thousand dollars ($25,000). He shall appoint, and at his pleasure may remove, an executive secretary and one confidential secretary, and one stenographer. The board of supervisors may annually appropriate additional sums to be expended by the mayor for purposes and duties incidential to the administration of the office of mayor, which shall be subject to the provisions of this charter relative to appropriations and the payment of claims. He shall, at the first meeting of the board of supervisors in January of each year, communicate by message to the supervisors a general statement of the condition of the affairs of the city and county, and recommend the adoption of such measures as he may deem expedient and proper.

The mayor shall be responsible for the enforcement of all laws relating to the municipality and for the review and submission of the annual executive budget; he shall supervise the administration of all departments under boards and commissions appointed by him; he shall receive and examine, without delay, all complaints relating to the administration of the affairs of the city and county, and immediately inform the complainant of findings and actions thereon; and he shall coordinate and enforce cooperation between all departments of the city and county. The mayor shall have power to postpone final action on any franchise that may be passed by the supervisors until such proposed franchise shall have been voted on at the next election.

The mayor shall appoint such members of boards or commissions and other officers as provided by this charter. He shall also make an ad interim appointment of a qualified person to fill any vacancy occurring by reason of the expiration of a term. He shall appoint for the unexpired term of the office vacated, a qualified person to fill any vacancy occurring in any elective municipal office, including the office of municipal court judge. [*The method of appointment, terms of office, and compensation of judges of the municipal court are not subject to regulation by charter.* See Sect. 11, Art. VI. of the Constitution.]

The mayor shall have a seat but no vote in the board of supervisors and in any board or commission appointed by him, with the right to report on or discuss any matter before such board or commission concerning the departments or affairs in his charge. He shall have power to designate a member of the board of supervisors to act as mayor in his absence. Should he fail, neglect or refuse so to do, the supervisors shall elect one of their number to act as mayor during his absence. When a vacancy occurs in the office of mayor, it shall be filled for the unexpired portion of the term by the supervisors. Every person who has served as mayor of the city and county, so long as he remains a resident thereof, shall have a seat in the board of supervisors and may participate in its debates, but shall not be entitled to a vote or to compensation.

In case of a public emergency involving or threatening the lives, property or welfare of the citizens, or the property of the city and county, the mayor shall have the power, and it shall be his duty, to summon, organize and direct the forces of any department in the city and county in any needed service; to summon, marshal, deputize or otherwise employ other persons, or to do whatever else he may deem necessary for the purpose of meeting the emergency. The mayor may make such studies and surveys as he may deem advisable in anticipation of any such emergency.

City Attorney

SECTION 26. The city attorney shall be an elective officer and shall receive an annual salary of ten thousand dollars ($10,000). He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He shall appoint and at his pleasure may remove, all assistants and employees in his office. He shall devote his entire time and attention to the duties of his office. He must, at the time of his election, be an

elector of the city and county, qualified to practice in all the courts of this state, and he must have been so qualified for at least ten years next preceding his election.

The city attorney must represent the city and county in all actions and proceedings in which it may be legally interested, or, for or against the city and county, or, any officer of the city and county in any action or proceeding, when directed so to do by the supervisors, except where a cause of action exists in favor of the city and county against said officer. Whenever any cause of action exists in favor of the city and county, the city attorney shall commence the same when within his knowledge or when directed so to do by the supervisors. He shall give his advice or opinion in writing to any officer, board or commission of the city and county when requested. Except as otherwise provided in this charter, he shall not settle or dismiss any litigation for or against the city and county, unless, upon his written recommendation, he is ordered so to do by ordinance.

The city attorney shall prepare, or approve as to form, all ordinances before they are enacted by the supervisors. He shall approve, by endorsement in writing, the form of all official or other bonds required by this charter or by ordinance before the same are submitted to the proper commission, board or office for final approval, and no such bonds shall be finally approved without such approval as to form by the city attorney. Except as otherwise in this charter provided, he shall prepare in writing the draft or form of all contracts before the same are executed on behalf of the city and county. He shall examine and approve the title of all real property to be acquired by the city and county.

He shall keep on file in his office copies of all written communications and opinions, also all papers, briefs and transcripts used in matters wherein he appears; and books of record and registers of all actions or proceedings in his charge in which the city and county or any officer or board thereof, is a party or is interested.

Taxpayers' Suits

SECTION 27. In the event that a taxpayer of the city and county institute suit or other proceeding as provided by law against any officer, board or commission of the city and county in the name of said taxpayer on behalf of the city and county, if judgment be finally entered in his favor he shall be allowed his costs and also such reasonable compensation for attorney's fees as may be fixed by the court.

Assessor

SECTION 28. The assessor shall be an elective officer and shall receive an annual salary of eight thousand dollars ($8,000). He shall furnish an official bond in the sum of fifty thousand dollars ($50,000). He shall appoint, and at his pleasure may remove, one chief assistant or deputy and one confidential secretary.

District Attorney

SECTION 29. The district attorney shall be an elective officer and shall receive an annual salary of eight thousand dollars ($8,000). He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He must, at the time of his election, be qualified to practice in all the courts of this state and must have been so qualified for at least five years next preceding his election. He shall appoint, and at his pleasure may remove, all assistants and employees in his office.

The district attorney, either in person or by his assistants, shall prosecute all criminal cases in the municipal and superior courts, draw all complaints, and issue warrants for the arrest of persons charged with crime who are to be prosecuted in such courts.

Any amount required by the district attorney from time to time from the district attorney's special fund shall be requisitioned by the district attorney, stating the general purpose for which required, whereupon the controller shall draw his warrant therefor and the claim be paid as provided for payment of other warrants by the treasurer. All such sums may be used by the district attorney solely as provided by general law and he shall file vouchers with the controller at the end of each fiscal year showing what disposition he has made of any moneys received by him from such fund and the particular purpose for which it was disbursed, provided that, if a criminal proceeding be pending or under investigation, vouchers for moneys disbursed in such proceeding or investigation, need not be filed until the trial of the criminal proceeding be ended or the investigation concluded. No portion of the fund shall be used for compensation or remuneration of full time assistants or employees.

Warrant and Bond Office

SECTION 30. There shall be a warrant and bond office. The district attorney shall appoint an assistant to have charge of the warrant and bond office to be designated warrant and bond deputy, and such additional assistants and clerks as may be provided by the budget and appropriation ordinances. No person shall be appointed warrant and bond deputy who is not at the time of his appointment qualified to practice law in all the courts of this state. The warrant and bond deputy shall keep his office open continuously night and day for the transaction of business; he shall draw and approve with his signature all complaints and warrants in criminal actions to be prosecuted in the municipal courts and any inferior court established by law in this city and county and possessing criminal jurisdiction; he shall have custody of all bail bonds and appeal bonds taken in such courts.

The warrant and bond deputy may issue bail bonds and appeal bonds and order the discharge from custody of the persons for whom such bonds are approved by a magistrate. He may fix cash bail in misdemeanor cases where arrests are made without warrants and may take cash bail in all cases arising in the municipal court and any inferior court established by law in this city and county and possessing criminal

jurisdiction, and may order the discharge from custody of the persons for whom cash bail is deposited with him.

In the matter of fixing bail and ordering the release of prisoners the warrant and bond deputy shall be subject to the judges of the municipal court and the judges of any court in the city and county empowered by law to act as magistrates.

Treasurer

SECTION 31. The treasurer shall be an elective officer and shall receive a salary of eight thousand dollars ($8,000) per year. He shall furnish an official bond in the sum of two hundred thousand dollars ($200,000). He shall appoint, and at his pleasure may remove, one chief assistant.

Sheriff

SECTION 32. The sheriff shall be an elective officer and shall receive a salary of eight thousand dollars ($8,000) per year. Said salary shall be exclusive of the compensation received by him from the state for the delivery of prisoners to the state prisons, and insane persons to the state asylums for the insane. He shall furnish an official bond in the sum of fifty thousand dollars ($50,000). He shall appoint, and at his pleasure may remove, an attorney, one under-sheriff, and one confidential secretary.

Public Defender

SECTION 33. The public defender shall be an elective officer and shall receive a salary of eight thousand dollars ($8,000) per year. He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He must, at the time of his election, be qualified to practice in all the courts of this state and must have been so qualified for at least five years next preceding his election. He shall appoint, and at his pleasure may remove, such assistants and employees in his office as may be provided by budget and appropriation ordinances. He shall immediately upon the request of a defendant who is financially unable to employ counsel, or upon order of the court, defend or give counsel or advice to any person charged with the commission of a crime.

Assistants and Employees in Elective Offices

SECTION 34. The elective officers of the city and county may appoint such assistants and employees as are authorized by the supervisors upon the recommendation of the mayor, in the annual budget and annual or supplemental appropriation ordinances, and may discipline and remove the same, subject to the civil service provisions of this charter except as otherwise specifically exempted by the provisions of this charter. Each assistant attorney in the offices of the city attorney, the district attorney and the public defender must, at the time of his appointment, be qualified to practice in all courts of the state and must have been so qualified for at least two years next preceding his appointment. The

salaries, wages and compensations of every kind and nature, except pensions and retirement allowances, for assistants and employees in such elective offices, shall be fixed as provided by the salary standardization provisions of this charter.

DEPARTMENTS UNDER MAYOR

Police Department

SECTION 35. The police department shall consist of a police commission, a chief of police, a police force and such clerks and employees as shall be necessary and appointed pursuant to the provisions of this charter, and shall be under the management of a police commission consisting of three members, who shall be appointed by the mayor, and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock, noon, on the 15th day of January in the years 1942, 1944 and 1945, respectively. The incumbents serving as members of the commission on the effective date of this amendment shall continue to hold their respective positions, subject to the provisions of the charter, for the remainder of the terms for which they have been respectively appointed.

The police commissioners shall be the successors in office of the police commissioners holding office in the city and county at the time this amendment shall become effective, and shall have all the powers and duties thereof, except as in this charter otherwise provided. They shall have power to regulate traffic, including the location and use of traffic control devices for that purpose.

SECTION 35.1. The police commission shall appoint a chief of police who shall hold office at its pleasure.

SECTION 35.2. All positions in the police department legally authorized shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments and except as otherwise provided in this charter.

SECTION 35.3. Each member of the department holding the position of inspector on the effective date of this amendment, and who has held such position for one year continuously prior thereto, is hereby declared permanently appointed thereto. The chief of police may detail from time to time other members of the department for performance of duty in the bureau of inspectors who shall be known as assistant inspectors, and who may be removed from such detail by order of the chief of police. An appointment as an inspector shall not be subject to competitive examination, but in case of vacancy in said rank of inspector, the appointment shall be made by the chief of police from among those assistant inspectors who have been detailed to, and who have actually served with the bureau of inspectors for at least five years prior to such appointment. Inspectors and assistant inspectors shall have the same rights as other members of the department to take competitive examinations from their respective civil service ranks. An inspector guilty of any offense or violation of the rules and regulations of the police department shall be subject to punishment as provided in section 155 of this charter. The chief of police in addition

to the inspectors above provided for shall detail any member of the department to serve as inspector of school traffic patrols who shall have the rank and pay of inspector, subject to the provisions of this section.

SECTION 35.4. Subject to the provisions of section 20 of this charter governing the appointment and removal of non-civil service appointees, and without competitive examination, the chief of police shall have power to appoint a police surgeon; to designate a deputy chief of police, a department secretary, and a director, bureau of special services, from any rank in the department; to designate a director, bureau of criminal information, from among the members of the department having the rank of sergeant or higher; to designate a captain of inspectors, a captain of traffic, and a director, bureau of personnel, from among the members of the department holding rank of lieutenant or higher, and to designate a supervising captain of districts from among the members of the department holding the rank of captain. Provided, that the captain of inspectors, who held said position on the 14th day of April, 1937, and for one year continuously prior thereto, is hereby continued in the said position as if he had been appointed thereto after civil service examination and certification. The department secretary or other suitable member of the department shall be assigned by the chief of police to serve also as secretary to the police commission without extra compensation. The chief of police shall assign a property clerk from among the members of the department, such assignment shall be made at the rank and pay of the member so assigned.

When any member of the department, detailed to any of the positions above mentioned, shall be removed from said detail or position, he shall be returned to his civil service rank and position, unless removed from the department pursuant to the provisions of section 155 of the charter.

SECTION 35.5. The police force of the city and county shall not exceed one police officer for each five hundred inhabitants thereof. The annual compensations for the several ranks in the department shall be as follows: Chief of police, $7,500; deputy chief of police, $5,700; captain of inspectors, $5,300; department secretary, $5,100; captain of traffic, director, bureau of criminal information; director, bureau of personnel and supervising captain of districts, each, $4,300; captains and criminologist, $3,900; lieutenants and director, bureau of special services, each, $3,300; inspectors, $3,060; sergeants, $2,940; police surgeon, $2,700; photographer, $3,000; police officers, police patrol drivers, and women protective officers, for first year of service, $2,400; for second year of service, $2,400; for third year of service, $2,400; for fourth year of service, $2,520; for fifth year of service, $2,580; for sixth year of service, $2,640; for seventh year of service and thereafter, $2,700.

The minimum annual compensation for police officers, women protective officers, and police patrol drivers, now members of the department or who shall be appointed from eligible lists established prior to the effective date of this amendment, shall be $2,520, and further adjustments shall be in accordance with the preceding paragraph.

In determining years of service necessary for a police officer, women protective officer and police patrol driver to receive the annual compensation sum of $2,580, $2,640, and $2,700, respectively, as provided for herein, service rendered prior to the effective date of this amendment shall

be given full credit and allowed. All service under this section shall be computed on the calendar year basis.

The absence of any police officer, woman protective officer, or police patrol driver on military leave of absence, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

Any member assigned to two-wheel motorcycle traffic duty shall receive $15 per month in addition to the compensation to which he would otherwise be entitled. see page 22A at back of book

SECTION 35.6. The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place in which the business is conducted or maintained is not a proper or suitable place in which to conduct or maintain such business or calling.

SECTION 35.7. In the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority, the chief of police, in the lawful exercise of his functions, shall have all the powers that are now or that may be conferred on the sheriff by the laws of this state.

SECTION 35.8. The supervisors shall provide in the annual budget, an amount not to exceed in any one fiscal year the sum of $10,000 to be known as the contingent fund of the chief of police. The chief of police may from time to time, disburse such sums for contingent expenses of the department as in his judgment shall be for the best interests of the city and county, and the police commission shall allow and order paid out of such contingent fund, upon orders signed by the chief of police, such amounts as may be required.

SECTION 35.9. At his discretion or upon the petition of any person, firm or corporation, the chief of police may appoint, and at his pleasure remove special police officers. Such officers shall be subject to all the rules and regulations of the department.

SECTION 35.10. The police commission may appoint patrol special officers and for cause may suspend or dismiss said patrol special police officers after a hearing on charges duly filed with the commission and after a fair and impartial trial. Each patrol special police officer shall be at the time of his appointment not less than twenty-one years of age nor more than forty years of age and must possess such physical qualifications as may be required by the commission. Age qualifications shall not apply to present patrol special police officers acting as such at the time of the effective date of this amendment nor to their reappointment. Patrol special police officers who are designated by the police commission as the owners of certain beat or territory as may be fixed from time to time by said commission or the legal heirs or representatives of said owners, may dispose of their interest in said beat or territory to a person of good moral character, approved by the police commission and eligible for appointment as a patrol special police officer.

SECTION 35.11. On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

SECTION 35.12. The chief of police shall have power, by regulation, to provide for the care and restitution of property that may come into possession of any officer or employee thereof, and the sale at public auction of all such unclaimed property, as well as the disposition of such property as shall consist of weapons or articles used or that may be used in the commission of crime, or the sale or disposition of which is prohibited by law.

SECTION 35.13. This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. *Ratified by the Legislature,* January 11, 1943.

Fire Department

SECTION 36. The fire department shall be under the management of a fire commission, consisting of three members, who shall be appointed by the mayor and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock noon on the 15th day of January in the years 1940, 1941 and 1942, respectively.

The fire commission shall appoint a chief engineer, a secretary and a department physician who shall hold office at its pleasure.

The fire commissioners shall be successors in office of the fire commissioners holding office in the city and county at the time this charter shall go into effect, and shall have all the powers and duties thereof, except as in this charter otherwise provided. The commissioners shall have power, upon recommendation of the chief engineer, to send fire boats, apparatus and men outside the City and County of San Francisco for fire-fighting purposes.

Positions of officers and employees of the fire department legally authorized shall continue, and incumbents therein legally appointed thereto shall continue as the officers and employees of the department under the conditions governing their respective appointments, and except as in this charter otherwise provided. The annual compensation for the several ranks in the department shall be as follows: Chief engineer, $7,500; first assistant and second assistant chief engineers, $5,100; battalion chiefs, $4,500; captains, $3,300; lieutenants, $3,120; engineers, $2,940; chief's operators, $2,820; drivers, stokers, tillermen, truckmen and hosemen, for first year of service, $2,400; for second year of service, $2,400; for third year of service, $2,400; for fourth year of service, $2,520; for fifth year of service, $2,580; for sixth year of service, $2,640; and for the seventh year of service and thereafter, $2,700. Pilots of fire boats and marine engineers of fire boats, $3,360; firemen of fire boats, $2,760.

Each period of twenty-four hours shall be divided into two tours of duty, to-wit: from eight o'clock A. M. to six o'clock P. M., and from six

o'clock P. M. to eight o'clock A. M. The uniformed force of the fire department shall be divided into two platoons, the officers and members assigned to which shall alternate on the tours of duty at intervals of not more than one week. No officer or member shall be required to remain on duty for more than fourteen consecutive hours, except when changing from one tour of duty to the other, or in case of a conflagration requiring the services of more than one-half of the force of the department.

On the recommendation of the chief engineer, the commission may reward any member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the commission, but not to exceed one month's salary in any one instance.

The chief engineer, or in his absence any assistant chief engineer, or in their absence any battalion chief in charge, may, during a conflagration, cause to be cut down or otherwise removed any buildings or structures for the purpose of checking the progress of such conflagration.

The absence of any officer or member of the fire department on military leave of absence, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the increased salaries provided for herein shall be payable only when the proper appropriation has been made to meet said salaries but not later than July 1, 1943. *Ratified by the Legislature*, January 11, 1943.

see page 24 A at back of book

Fire Marshal

SECTION 37. The chief of the fire department, with the approval of the fire commission, may appoint a fire marshal and assistants on the recommendation of the Underwriters Fire Patrol of San Francisco, to serve without compensation from the city and county. The board of supervisors may empower the fire marshal to sell property saved or salvaged from any fire and for which no owner can be found. The fire marshal may call upon police officers to assist in the protection or salvaging of property and shall have such other powers and duties as by ordinance may be prescribed relative to the protection of property at fires and the storage of property salvaged therefrom. He shall have such duties appertaining to the enforcement of laws relative to the storage, sale and use of oils, combustible materials and explosives as the fire commission by rule, or the supervisors by ordinance, may prescribe.

Fire Prevention

SECTION 38. The bureau of fire prevention and public safety under the jurisdiction of the fire commission is hereby established. The commission shall detail to said bureau from the uniformed force of the department an officer to have charge of said bureau and such other personnel as it may deem necessary, who shall be paid the salary or salaries for their respective ranks in the fire department. The bureau

shall inspect all structures and premises to determine whether or not compliance is being had with statutes and ordinances relative to fire prevention, fire protection and fire-spread control, and the protection of persons and property from fire. It shall enforce said statutes and ordinances and shall report violations to departments having jurisdiction.

The bureau shall examine the application, plans and specifications for the erection, and for alterations or repairs estimated to exceed $1,000 in cost, of any structure or premises subject to the statutes and ordinances referred to in this section. The bureau shall by written report, filed with the superintendent of building inspection, approve such plans and specifications, or report to said superintendent the particulars wherein non-compliance exists, and upon modification of the application, plans and specifications to comply therewith, the bureau shall inform said superintendent of its approval. No permit for alteration or repair exceeding $1,000 in cost, or for erection, shall be issued unless said approval is given.

The fire commission, relative to permits subject to issuance or revocation by the chief engineer of the fire department, shall, by regulation, prescribe such duties of the bureau of fire prevention as it shall deem appropriate. Any structure or premises wherein there exists any violation of statutes and ordinances referred to in this section, or which is maintained or used in such manner as to endanger persons or property by hazard of fire, explosion or panic and any structure or premises hereafter constructed, altered or repaired in violation of said statutes and ordinances is hereby declared to be a public nuisance, and it shall be the duty of the bureau to prosecute abatement proceedings.

An appeal and advisory board is hereby created, consisting of the chief engineer of the fire department, who shall be the chairman, the fire marshal, and the heads of the bureau of building inspection and the department of electricity, and a lay member to be appointed by the mayor for a four-year term. Said board shall serve without compensation.

An appeal may be taken from any act, determination or order of the bureau, performed under this section, by filing a written appeal with the appeal and advisory board.

Pending action on such appeal any construction, alteration or repair, embraced therein, may proceed if a building permit therefor has been issued, but no such permit may be issued while action on an appeal is pending. No certificate of completion or occupancy shall be issued by any officer or employee until said appeal has been determined. The advisory and appeal board may affirm, reverse or modify the act and determination of the bureau. If the appeal is determined adversely to the appellant, said structure or premises shall be made to comply with such decision. It shall require four votes of the board to reverse or modify the act, order or determination for the bureau.

Salvage Corps

SECTION 38.1. There is hereby created in the San Francisco fire department a division to be known as the salvage corps.

The duties of said salvage corps shall be the protection of property, during the period of any fire and immediately after said fire, from damage by smoke, water or flames. Said salvage corps shall be under the jurisdiction of the fire commission of the City and County of San Francisco. The personnel of said salvage corps shall not be transferred to any other branch or division of the fire department but shall at all times be subject to the orders of the chief engineer of the department in so far as actual service is concerned. The personnel of said salvage corps may be increased in accordance with the fiscal and budgetary procedure provided for in the charter, but members of any other branch or division of said fire department shall not be transferred to said salvage corps except after examination and certification as to eligibility by the civil service commission.

All persons employed in the uniformed force of the corporation known as the Underwriters' Fire Patrol of San Francisco, on the effective date of this amendment and who have been so employed for a period of six months next before the effective date of this amendment shall become members of said salvage corps and shall be deemed appointed as such in accordance with the civil service provisions of the charter and shall thereafter be entitled to all of the benefits thereof. Any person heretofore employed in the uniformed force of said Underwriters' Fire Patrol of San Francisco who has been granted a leave of absence for military purposes and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six months next before the granting of said leave of absence, shall, on the expiration of his said leave, become a member of said salvage corps and also shall be deemed appointed thereto pursuant to the civil service provisions of the charter and entitled to all of the benefits thereof.

All persons who, on the effective date of this amendment, shall be serving as officers in said uniformed force of said Underwriters' Fire Patrol of San Francisco and who have been so serving for a period of six months prior thereto, shall continue to occupy their respective official positions, with the exception that such persons as may be serving in the position of sergeant shall become lieutenants in said salvage corps and the position of sergeant shall no longer exist.

The officers and members of said salvage corps shall receive respectively the salaries provided for captains, lieutenants and hosemen provided by section 36 of the charter and for the purpose of determining the salaries of said hosemen, service rendered in the uniformed force of said Underwriters' Fire Patrol of San Francisco shall be deemed as service rendered in the service of the City and County of San Francisco.

Upon the actual taking over of the employees of said Underwriters' Fire Patrol of San Francisco, the members thereof coming into the employment of the City and County of San Francisco shall become members of the San Francisco city and county retirement system and shall be entitled to the benefits thereof and subject to the obligations thereof pursuant to the provisions of section 165 of the charter.

All employees hereafter added to said salvage corps, including officers appointed thereto, other than those who may have been serving in the uniformed forces of said Underwriters' Fire Patrol of San Francisco and continue in the service of the City and County of San Francisco pursuant

to the provisions of this section, shall be appointed and hold their positions subject to the civil service provisions of the charter.

The tours of duty of the members of said salvage corps shall be the same as the tours of duty for other members of the uniformed force of the fire department as the same are set forth in section 36 of the charter.

The physical and age requirements for future applicants and members of the salvage corps shall be the same as those applicable to applicants for and regular members of equal rank in the San Francisco fire department.

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. *Ratified by the Legislature,* January 11, 1943.

Board of Permit Appeals

SECTION 39. The mayor shall appoint five qualified electors, other than city and county officials or employees, for terms of four years, to constitute a board of permit appeals. The compensation for each member shall be fifteen dollars ($15) per meeting of the board actually attended by such members provided that the total amount paid all members of the board shall not exceed five thousand dollars ($5,000) per year. The persons first appointed shall determine their terms by lot so that one such term shall expire at twelve o'clock noon on the 15th day of January in each of the years 1933, 1934 and 1935, and the remaining two terms at twelve o'clock noon on the 15th day of January, 1936, and upon these and successive expirations the mayor shall appoint their successors for four-year terms.

Any applicant for a permit or license who is denied such permit or license by the department authorized to issue same, or whose license or permit is ordered revoked by any department, or any person who deems that his interests or property or that the general public interest will be adversely affected as the result of operations authorized by or under any permit or license granted or issued by any department, may appeal to the board of permit appeals. Such board shall hear the applicant, the permit-holder, or other interested parties, as well as the head or representative of the department issuing or refusing to issue such license or permit, or ordering the revocation of same. After such hearing and such further investigation as the board may deem necessary, it may concur in the action of the department authorized to issue such license or permit, or, by the vote of four members, may overrule the action of such department and order that the permit or license be granted, restored or refused.

Park Department

SECTION 40. The park department shall be under the management of a park commission consisting of five members who shall be appointed by the mayor and shall serve without compensation. The term of office of each commissioner shall be four years, provided that the commissioners in office at the time this charter shall go into effect shall be

continued in office until twelve o'clock noon on the 15th day of January of the year of expiration of their terms, and thereafter their successors shall be appointed for four-year terms, commencing at twelve o'clock noon on the 15th day of January in such respective years.

The park commission shall appoint a secretary and a superintendent of parks and director of the zoo, who shall hold office at its pleasure. The superintendent shall be the chief executive of the department. He shall appoint all other employees of the said department and such appointments exclusive of those in part time service where the compensation including valuation of maintenance or other allowances is less than $80 per month shall, beginning September 1, 1941, be subject to the civil service provisions of this charter. Occupants of positions hereby made subject to the civil service provisions of the charter who occupied such positions on the 1st day of September, 1941, and who have occupied the same for one year immediately prior thereo, shall be continued in their positions as if appointed thereto, after examination and certification from a list of eligibles and shall be governed thereafter by the civil service provisions of the charter. Compensation of employees of the park department shall be subject to standardization to the same extent as are compensations of employees in other departments which are now subject to salary standardization.

The park comuission shall be successors in office of the park commissioners holding office in the city and county at the time this charter became effective and shall have all the powers and duties thereof, except ordinance making powers and except as in this charter otherwise provided. *Ratified by the Legislature,* January 21, 1941.

Control of Parks

SECTION 41. The commissioners shall have the complete and exclusive control, management, and direction of the parks, squares, avenues, grounds and recreation centers, now or hereafter placed under charge of the commission, including exclusive right to erect and to superintend the erection of buildings and structures thereon, except as in this charter otherwise provided.

The commissioners shall not lease any part of the lands under its control nor permit the building or maintenance or use of any structure on any park, square, avenue or ground, except for recreation purposes, and each letting or permit shall be subject to the approval of the board of supervisors by ordinance, but the commission may lease to the highest responsible bidder for a term not to exceed fifty years and upon such other terms and conditions as it may determine, subsurface space under any public park and the right and privilege to conduct and operate therein a public automobile parking station, provided that the said construction, when completed, and the operation will not be, in any material respect or degree, detrimental to the original purpose for which said park was dedicated or in contravention to the conditions of any grant under which said park might have been received. The revenues derived from any such lease shall be credited to the park fund.

The commission shall have power to lease any stadium or recreation field under its jurisdiction for athletic contests and exhibitions and may permit the lessee to charge an admission fee. *Refer to Digest.*

Recreation Department

Section 42. The recreation department shall be under the management of a recreation commission consisting of seven members, five of whom shall be appointed by the mayor, and who shall serve without compensation. Three of the members appointed by the mayor shall be men and two shall be women. The superintendent of schools and the superintendent of parks shall be members of the commission ex officio.

The members of said commission heretofore appointed by the mayor and who shall continue to hold office on the effective date of this section, as amended, shall continue to hold their respective offices for the respective terms for which they have been appointed, and at the expiration of each of said terms the mayor shall fill the vacancies created by the expiration of the term of any member of said commission, and the mayor shall have the authority to fill any vacancy otherwise occurring in said commission.

The recreation commission shall appoint a superintendent, who shall be the chief executive officer of said department, and who shall hold office at the pleasure of the commission.

The commissioners shall have the complete and exclusive control, management and direction of all playgrounds, recreation centers, and all other recreation facilities, now or hereafter placed under charge of the commission, including exclusive right to erect and to superintend the erection of buildings and structures thereon, and to construct new playgrounds and recreation centers, except as in the charter otherwise provided. *Ratified by the Legislature*, January 11, 1943.

Library Department

Section 43. The library department shall be under the management of a library commission consisting of eleven members who shall be appointed by the mayor and shall serve without compensation.

The eleven library trustees constituting the board of library trustees in office at the time this charter shall go into effect shall, by lot, classify their respective terms of office so that three of such terms shall begin at twelve o'clock noon on the 15th day of January, 1932, 1933, and 1934, respectively, and two such terms shall begin at twelve o'clock noon on the 15th day of January, 1935. The term of each commissioner shall be four years, at the expiration of which the mayor shall appoint his successor.

The library commission shall appoint a librarian and a secretary who shall hold office at its pleasure. The librarian shall be the chief executive of the department and shall be the appointing officer for the department as provided in section 20 of the charter.

Commencing on the 1st day of January, 1942, all positions in the library department except those of librarian and secretary of the library commission and part time services carrying compensation of less than $80 per

month including valuation of maintenance or other allowances shall be subject to the civil service provisions of this charter, and upon said date, any incumbent of such position in the library department, hereby made subject to civil service, who shall have held such position continuously for one year prior thereto, shall be deemed appointed to such position under the civil service provisions of this charter.

The library commission shall be the successors in office of the board of library trustees holding office at the time this charter shall go into effect and shall have all the powers and duties thereof, except as in this charter otherwise provided. *Ratified by the Legislature*, January 21, 1941.

War Memorial

SECTION 44. The board of trustees of the San Francisco war memorial shall, under ordinance, have charge of the construction, administration and operation of said war memorial and of the grounds set aside therefor. The board shall consist of eleven members appointed by the mayor, subject to confirmation by the board of supervisors. The terms of office of the incumbent trustees shall expire as heretofore classified by lot, as follows: The terms of four of said trustees shall expire on the 2nd day of January, 1933; three on the 2nd day of January, 1935; and four on the 2nd day of January, 1937. Thereafter appointments to said board shall be for the term of six years. Vacancies on said board shall be filled by the mayor, subject to confirmation by the board of supervisors, for the unexpired term becoming vacant. In making appointments to said board, the mayor shall give due consideration to veterans of all wars in which the United States may have engaged, and to such other classes of persons who may have a special interest in the purpose for which said war memorial is to be constructed and maintained. The members of said board shall serve without compensation.

The board shall have the power to appoint a secretary and a managing director, each of whom shall hold office at its pleasure, and such other employees as may be provided by the annual budget and appropriation ordinance.

The board of supervisors shall annually appropriate to the war memorial board an amount sufficient to defray the cost of maintaining, operating and caring for said memorial.

Art Commission

SECTION 45. An art commission for the city and county is hereby created, consisting of ten members appointed by the mayor and six ex officio members. The ex officio members shall be the mayor and the chairmen of the following boards and commissions: Public library, park, city planning, de Young Memorial Museum and California Palace of the Legion of Honor. The mayor shall appoint three lay members, and an artist-painter, an artist-sculptor, a musician, a litterateur, two architects and one landscape architect. In appointing the seven professional members, the mayor shall solicit nominations from architectural, art, musical, literary and other cultural organizations of the city.

The first appointments by the mayor shall be made not later than the 15th day of January, 1932, and shall be for the following terms, which shall expire at twelve o'clock noon on the 15th day of January in the respective years: One landscape architect and one lay member, one-year terms; one artist-sculptor and one architect, two-year terms; one musician and one lay member, three-year terms; one litterateur and one architect, four-year terms; and one artist-painter and one lay member, five-year terms. Upon the expiration of the terms, all successive appointments shall be for a period of five years.

The members of the commission shall serve without compensation. No member of this commission shall receive from the city and county, or from any trust, donation, or legacy, any compensation for any service as an artist for the benefit of the city and county.

Powers and Duties

SECTION 46. No work of art shall be contracted for or placed or erected on property of the city and county or become the property of the city and county by purchase, gift or otherwise, except for any museum or art gallery, unless such work of art, or a design or model of the same as required by the commission, together with the proposed location of such work of art, shall first have been submitted to and approved by the commission. The term "work of art" as used in this charter shall comprise paintings, mural decorations, stained glass, statues, bas reliefs or other sculptures; monuments, fountains, arches or other structures of a permanent or temporary character intended for ornament or commemoration. No existing work of art in the possession of the city and county shall be removed, relocated or altered in any way without the approval of the commission, except as otherwise provided herein. The commission shall have similar powers with respect to the design of buildings, bridges, viaducts, elevated ways, approaches, gates, fences, lamps or other structures erected or to be erected upon land belonging to the city and county, and concerning arches, bridges, structures and approaches which are the property of any corporation or private individual and which shall extend over or upon any street, avenue, highway, park or public place belonging to the city and county Said commission shall so act and its approval shall be required for every such structure which shall hereafter be erected or contracted for, and may advise in respect to lines, grades and platting of public ways and grounds.

Nothing herein contained shall be construed to limit or abridge the legal powers of the governing boards of the war memorial, the M. H. de Young Memorial Museum or the California Palace of the Legion of Honor.

The commission shall supervise and control the expenditure of all appropriations made by the board of supervisors for music and the advancement of art or music.

The commission shall exercise all reasonable supervision of policy connected with the arts as may hereafter be assigned to it by ordinance or executive action.

The commission shall decide upon any expenditure of less than one thousand dollars ($1,000) within fifteen days after submission, and upon any other matter within thirty days after submission. If it fails so to do, its decision shall be considered unnecessary.

The commission may volunteer advice or suggestion to the owners of private property in relation to the beautification of the same; and any person contemplating to erect any building or make any improvement may submit the plans and designs or sketches thereof to the art commission for advice and suggestions, for which no charge shall be made by the art commission.

Control of Harbor by City and County

SECTION 47. Whenever the State of California shall grant, or by legislative action agree to grant, to the City and County of San Francisco all or a substantial part of the property now under the jurisdiction, possession, control and management of the board of state harbor commissioners, including the interest of the State of California in that portion of the bay of San Francisco now controlled by the board of state harbor commissioners and used as the harbor of San Francisco, the said city and county shall accept the same, and shall thereafter have authority to manage, govern, administer and control, all and singular, the property, rights and privileges granted, assigned or conveyed by the said State of California. Said city and county shall also have power, subject to the bond issue procedure provided for in this charter, or now or hereafter provided for by the laws of the State of California to assume an obligation or obligations to the State of California for the outstanding bonded indebtedness incurred by the State of California for the acquisition, construction, improvement and development of the said harbor or of the properties used in connection therewith, or to issue new and additional bonds therefor; and any and all indebtedness assumed or bonds issued for said purpose shall not be included in the bonded debt limit provided for in section 104 of this charter, and if thereafter any additional bonded indebtedness is incurred to improve, construct, re-construct or extend said harbor, or to add thereto or to renew, construct or re-construct, operate or extend any service or equipment or utility used in connection with said harbor or in connection with the operation thereof, said bonded indebtedness so incurred shall also be exempt from the limitations contained in section 104 of this charter. All the powers and duties incident to the management, government, control and administration of the said harbor, and all properties and utilities used in connection therewith, shall be vested in the harbor commission of the City and County of San Francisco.

Said harbor commission of the City and County of San Francisco shall consist of five members to be appointed by the mayor, one of whom shall be a representative of the agricultural interests of the State of California and need not be a resident of the city and county. The term of office of each of said members shall be five years, provided that those first appointed to said commission shall so qualify themselves by lot that their terms of office shall expire respectively, one, two, three, four and five years after the 15th day of January next after their respective appointments. Vacancies on said board shall be filled by the mayor for the unexpired term. Each

of said persons appointed to said commission shall give a bond in the sum of five thousand dollars ($5,000) duly conditioned for the faithful performance of his duties and said persons so appointed shall be subject to recall, suspension, and removal in the same manner as an elective official. The compensation of each of the members of said harbor commission shall be twelve hundred dollars ($1,200) per year. *Ratified by the Legislature,* April 14, 1937.

Powers and Duties of Harbor Commission

SECTION 48. The said harbor commission shall have possession, control and management of all and singular the properties and equipment granted to the City and County of San Francisco by the State of California for harbor purposes, as well as that portion of the bay of San Francisco now operated and controlled by the board of state harbor commissioners for harbor purposes, and also all property and equipment hereafter acquired by the city and county for said purposes.

Said harbor commission shall have all of the powers and duties given to boards and commissions by section 19 of the charter, and in addition thereto shall have power:

(a) To regulate and control the anchoring, mooring, towing and docking of all vessels and water craft;

(b) To regulate and control the construction, maintenance, operation and use of, and to use and operate any and all railroads, wharves, warehouses, cold storage or refrigeration plants or other structures, improvements or appliances, used in connection with said harbor, or for the accommodation or promotion of commerce, navigation or fishing in or about said harbor;

(c) To regulate and control all dredging and excavation in or about said harbor;

(d) To fix, regulate and collect fees, rates, tolls or charges for the use or service of all wharves, warehouses, water craft, railroads or other facilities, structures or appliances owned, controlled or operated by said harbor commission, in connection with said harbor, or in connection with, or for the promotion or accommodation of commerce, navigation or fishing. All of said fees, rates, tolls and charges shall be sufficient to produce sufficient revenue to pay all expenses of every kind and nature incident to the operation and maintenance of said harbor and the properties and equipment used in connection therewith, together with the interest and sinking fund for any outstanding bonds issued by the State of California or by the City and County of San Francisco for the acquisition, construction or extension of said harbor, or of any of the properties or equipment used in connection therewith; provided that should the commission propose a schedule of rates, fees and charges or rentals for the respective services to be furnished by said commission which shall not provide such revenue, it may do so with the approval of the board of supervisors by a two-thirds vote thereof. Said harbor commission shall, from time to time, report to the board of supervisors a proposed schedule of fees, rates, tolls and charges to be made for the several classes of service to be rendered, and said fees, rates, tolls and charges shall be the legal fees, rates, tolls and charges to be paid to said harbor commission for said services, unless the same are disapproved by a two-thirds vote of said board of supervisors,

within thirty (30) days after said report is received. If said board of supervisors by a two-thirds vote rejects said schedule, it may return the same to the said harbor commission for revision;

(e) To enter into leases of lands, buildings, docks and piers, said leases to be approved by the board of supervisors before the same shall be effective; provided that the right to use any building, dock or pier for a period not to exceed one year shall not be deemed a lease under this section and the board shall have power to assign the use of any building, dock or pier for a period not exceeding one year at the regular tolls;

(f) To appoint a harbor master who shall be the chief executive of the harbor commission and who shall have the management of all of the affairs and activities placed under the jurisdiction of the said board. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission subject to the annual appropriation and salary ordinance. He shall hold his office at the pleasure of the commission and shall have the management of said harbor and of all of the facilities and equipment thereof and of all bureaus and departments established for the operation of said harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission he shall appoint and remove any and all heads of departments or bureaus, who may not be subject to the civil service provisions of the charter. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable private employment. The commission may confer on him such additional powers and authority as it may see fit;

(g) To establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs;

(h) To enter into such agreements, subject to the approval of the board of supervisors with the State of California, the board of state harbor commissioners, or any other state agency or department that may be necessary to obtain and receive, take or hold any properties, privileges or things granted to the city and county by the state;

(i) To institute, defend or prosecute, in the name of the City and County of San Francisco, any and all actions or legal proceedings necessary or proper to acquire, hold or defend the possession of any property granted to the said city and county, or held by said city and county, for harbor purposes, and to institute and prosecute any and all actions or legal proceedings necessary or proper to prevent the obstruction or illegal use or occupation of any of the properties, things or facilities held by the city and county for the purposes of said harbor. The city attorney shall be the legal adviser of the commission, and may, with the approval of the commission compromise, settle or dismiss any litigation or legal proceeding pending for, or on behalf of the commission, relative to any matter under its jurisdiction, provided that if such action or proceeding involves the title or right of possession of any real property owned by the city and county, such action shall not be compromised, settled or dismissed without the concurrence of the board of supervisors. The city attorney shall, at the request of the commission detail the necessary attorneys to perform the legal work of the commission, and said commission may, with the consent of the mayor and the approval of the city attorney, appoint special

counsel for temporary purposes. The compensation of all attorneys serving the commission shall be paid from the revenues of the harbor, unless otherwise provided in the salary and appropriation ordinance.

The board of supervisors may confer upon said harbor commission such other and additional powers as it shall deem proper and which are not in conflict with this section. *Ratified by the Legislature,* April 14, 1937.

Employees of Harbor Commission

SECTION 48.1. All persons actually employed in the operating service of the board of state harbor commissioners at the time the City and County of San Francisco shall take over and assume the management and control of the said harbor and the properties used in connection therewith, and who at said date shall be entitled to benefits of the civil service provisions of the State of California, in so far as the same may be applicable to the employees of the board of state harbor commissioners, shall be continued in their respective positions and shall continue to hold their said positions pursuant to the civil service provisions of this charter, and shall be entitled to all of the rights, benefits and privileges which said persons might have, or might have had, had said persons been originally appointed to their respective positions under certification from the civil service commission of the City and County of San Francisco; and in the matter of seniority, in service of said employees entitled to the benefits of said civil service provisions, as herein provided, the seniority of each employee shall be reckoned from his first permanent appointment to employment under said board of state harbor commissioners, and as to their respective positions, said employees shall have preference over all other employees of the city and county.

All employees of the board of state harbor commissioners at the time this act shall go into effect shall continue to be members of the state employees' retirement system, with all the rights, privileges and benefits of said system until the time of the actual transfer to the City and County of San Francisco of the properties now under the jurisdiction of said board of state harbor commissioners; and upon the acceptance of said transfer by the City and County of San Francisco, said employees shall become members of the San Francisco city and county retirement system and shall be entitled to all the benefits and privileges and subject to the obligations of said system and the retirement board of the San Francisco City and County Employees' Retirement System shall make such allowance and provision for the prior service of said employees rendered to the board of state harbor commissioners as may be recommended by said retirement board and approved by ordinance of the board of supervisors.

All employees whose respective employments are transferred from the board of state harbor commissioners to the harbor commission of the City and County of San Francisco, pursuant to the provisions of this section or pursuant to the provisions of any act of the Legislature of the State of California transferring the properties now under the jurisdiction of the board of state harbor commissioners to the City and County of San Francisco, and who, at the date of the actual transfer of said properties, reside outside of the City and County of San Francisco, shall not be subject to

the residential qualifications of officers and employees of the city and county provided for in section 7 of this charter.

In the matter of the control and operation of the harbor and of the facilities and equipment thereof, including the matter of budgets and appropriations, the harbor commission shall be subject to the budgetary and fiscal procedure elsewhere provided for in this charter.

Full power and authority is hereby vested in the board of supervisors of the City and County of San Francisco to enter into such supplemental agreements with the State of California, or with the board of state harbor commissioners, or with any other agency of the State of California, not in conflict with the provisions of this charter, in order to meet any condition provided for by the Legislature of the State of California in the transfer to the City and County of San Francisco of said properties now under the jurisdiction of the board of state harbor commissioners, and any agreement so entered into will be as binding upon the City and County of San Francisco as if the provisions of said agreement were embodied in this charter.

The revenues of said harbor, and of all the properties incident thereto, or used in connection therewith, shall be deposited in a separate fund in the treasury of the city and county, and shall be used for the following purposes, and in the order herein named:

(a) For the payment of operating expenses, including pension charges.

(b) For the payment of the principal and interest of any obligations of the State of California and assumed or agreed to be paid by the City and County of San Francisco;

(c) For repairs and maintenance of the properties of said harbor or used in connection with the operation thereof;

(d) For the payment of the principal and interest on any bonds issued by the City and County of San Francisco for the acquisition, construction, repair or extension of said harbor, or of any of the facilities used in connection therewith;

(e) An amount which shall be sufficient to meet the cost of reconstruction and replacement made necessary by the physical and functional depreciation of any of the properties or equipment of said harbor, as the same shall occur;

(f) To pay for extensions and betterments to said harbor or to the equipment and facilities thereof;

(g) To establish a surplus or sinking fund for the improvement or extension of the harbor or for any facility used in connection therewith. *Ratified by the Legislature*, April 14, 1937.

Other Departments Under Mayor

SECTION 49. The mayor shall nominate members of the board of education for confirmation by the voters, and shall appoint two members of the retirement board, and shall also appoint members of the public utilities, city planning and civil service commissions, each of which said boards or commissions to have the membership, terms of members, and powers and duties as are provided in this charter.

California Palace of the Legion of Honor

SECTION 50. The California Palace of the Legion of Honor shall be known as such in perpetuity. The management, superintendence, and operation thereof and the lands set aside therefor shall be vested in a board of eleven trustees, of which the mayor and the president of the park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. None of said trustees shall receive any compensation for his or her services. Trustees need not be residents of the city and county.

The board shall have exclusive charge of the said memorial, the lands set aside therefor, and its affairs, and of all real and personal property thereunto belonging, or which may be acquired by loan, purchase, gift, devise, bequest or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise or bequest. It shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter; provided that all such assistants and employees who are actually employed, or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date or such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject to the civil service provisions of this charter. The secretary shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller. The trustees shall have power to insure loan exhibits against any risk.

The supervisors, for the purpose of maintaining, operating and superintending said memorial, and the purchase of objects of art, literary productions and other personal property, shall provide an amount sufficient for the maintenance, operation, and superintendence thereof; subject to the budget and fiscal provisions of this charter, and to that end shall levy a tax annually, the proceeds of which shall be credited to and deposited in a fund in the treasury of the city and county to be known as the "California Palace of the Legion of Honor Fund," and shall be used exclusively for the purposes thereof.

It is the intention that the administration and control of the California Palace of the Legion of Honor shall be continued with the powers granted and under the conditions imposed by the terms of the donation and accepted by the city and county. *Ratified by the Legislature,* January 11, 1943.

M. H. de Young Memorial Museum

SECTION 51. The M. H. de Young Memorial Museum shall be known as such in perpetuity. The museum and the grounds set aside therefor

shall be under the management, superintendence, and operation of a board consisting of eleven trustees, of which the mayor and the president of the park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. None of said trustees shall receive any compensation for his or her services.

The board shall have exclusive charge of the said memorial museum, the lands set aside therefor, and its affairs, and of all real and personal property thereunder belonging, or which may be acquired by loan, purchase, gift, devise, bequest, or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise, or bequest. The trustees shall have power to insure loan exhibits against any risk. The park commission shall maintain and care for the grounds of this memorial museum, and shall furnish the moneys for the necessary repair and embellishment of the grounds and unoccupied parts.

The board of trustees shall have the power to maintain, repair or reconstruct existing buildings and construct new buildings and to make and enter into contracts relating thereto, subject, however, to the budget and annual appropriation ordinance. The supervisors, subject to the budget provisions of this charter, shall, for the purpose of maintaining said memorial museum, include in each annual budget of city and county expenditures an amount sufficient for the maintenance, operation and superintendence thereof, not less than forty thousand dollars ($40,000) in each annual budget, and such additional amount as is necessary to take care of the increased demand for help, buildings, repairs, and care of said memorial museum. Such amount shall be credited to and deposited in the fund in the treasury of the city and county to be known as the "M. H. de Young Memorial Museum Fund." The board shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter; provided that all such assistants and employees who are actually employed, or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date of such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject to the civil service provisions of this charter. The secretary shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller.

It is the intention that the administration and control of the M. H. de Young Memorial Museum shall be continued with the powers granted and under the conditions imposed by the terms of the donations and accepted by the city and county. *Ratified by the Legislature,* January 11, 1943.

Steinhart Aquarium

SECTION 52. The management, superintendence and operation of the Steinhart Aquarium shall be in charge and under the direction of the California Academy of Sciences of San Francisco. Necessary funds for the maintenance and operation of said aquarium shall be furnished by the city and county to the California Academy of Sciences of San Francisco, subject to the budget and fiscal provisions of this charter.

JUDICIAL DEPARTMENTS

Municipal Court

SECTION 53. The powers and duties of the municipal court of the city and county shall be as established by the constitution and general law, and said municipal court shall be as constituted and regulated by general law, except as otherwise provided in this charter. The municipal court shall consist of twelve judges, who shall be elected as provided by section 5 of this charter, and each of whom shall be paid a salary of six thousand dollars ($6,000) per year. The compensation of said judges shall be in full for all services, and any fees required to be collected by law by the municipal court or the clerk thereof, shall be paid into the treasury of the city and county. No judge of the municipal court shall practice law in or out of court during his continuance in office.

The judges of the municipal court shall annually choose one of their number to be presiding judge. The presiding judge shall have the general superintendence of the business of the court, shall classify and distribute the same, fix the vacations of the judges, and assign the judges to the several departments of the court; but any judge may proceed in any such department in the absence or the inability of the judge regularly assigned thereto. The presiding judge shall supervise and direct the work of the clerk of the municipal court, and shall be responsible for the proper keeping of records and making of reports by the clerk. [*The method of appointment, terms of office, and compensation of judges of the municipal court are not subject to regulation by charter.* See Sect. 11, Art. VI, of the Constitution.]

Municipal Court Regulations and Reports

SECTION 54. The judges of the municipal court shall meet at least once in each month, and at such other times as the presiding judge may require, and shall prescribe rules and regulations not inconsistent with general laws as are necessary and proper for the advancement of justice and prevention of delay in the business of the court.

Not later than the tenth day of each month, the presiding judge, through the clerk of the municipal court, shall file with the board of supervisors a consolidated report of the business of the court and the judges thereof for the preceding month. Copies of such reports shall be filed with the city attorney, the district attorney, the chief of police and the clerk of the municipal court. In January of each year, the

presiding judge, through the clerk, shall file a similar report covering the preceding calendar year. The board of supervisors may cause copies of such annual reports to be printed for free distribution to citizens who request them.

Clerk of the Municipal Court

SECTION 55. The clerk of the municipal court shall be appointed by the judges of the court, and shall hold office at their pleasure. The clerk shall appoint, subject to the civil service provisions of this charter, such clerks, stenographers, interpreters and other personnel as may be authorized by appropriation ordinances of the board of supervisors; provided, however, that the sheriff shall, on the order of the court, detail necessary bailiffs to the civil departments thereof, and shall execute the orders and processes issued by the court. The salaries of the clerk and the personnel of the clerk's office shall be fixed by the board of supervisors, as provided by this charter for other city and county employees. The clerk shall have charge, superintendence and control of said office and the personnel thereof, and be responsible for records and reports incidental to the business of the court. He shall have the powers and duties prescribed by general law not inconsistent with this charter.

Superior Court Appointments

SECTION 56. The judges of the superior court of the city and county may appoint a secretary-jury commissioner, who shall hold office at the pleasure of the court. He shall have the powers and duties prescribed by general law, not inconsistent with this charter. His salary and the salaries of his assistants and employees shall be fixed by the board of supervisors as provided by this charter for other city and county employees. Subject to the approval of the court, he shall appoint and, at his pleasure, may remove his assistants and employees. [*Position of secretary and jury commissioner and his assistants are subject to state law, not charter provisions.* See Sect. 204e, Code of Civil Procedure.]

The San Francisco Law Library

SECTION 57. The San Francisco Law Library, established under an act of the Legislature approved March 9, 1870, shall be under the management and control of the board of trustees, which shall consist of seven appointive members of the San Francisco bar, and the mayor, the presiding judge and the three judges of the appellate department of the superior court, ex officio. The board of trustees holding office at the time this charter shall go into effect shall continue as the board of trustees of said library. All vacancies on said board shall be filled by said board.

The board of trustees shall appoint and at its pleasure may remove a librarian, who shall be its executive officer, and such assistants as are necessary for the proper conduct and operation of the library.

The salaries of the librarian and the assistants and employees shall be fixed by the board of supervisors as provided by this charter for other city and county employees.

The supervisors shall provide suitable and sufficient quarters for the law library, fit up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The library shall be so located as to be readily accessible to the judges and the officers of the court.

The county clerk and the clerk of the municipal court shall collect the fees provided for law libraries by general law and the fees so collected by such officers or by any officers under any other provisions of the law shall be paid to the treasurer of the law library monthly, and shall constitute a law library fund to be expended by the law library trustees in the purchase of books and periodicals, and in the establishment and maintenance of the law library.

The judiciary, city, county and state officials, members of the bar and all inhabitants of the city and county of San Francisco shall have free access, use and enjoyment of the law library, subject to rules and regulations of the board of trustees.

Probation Boards

SECTION 58. The adult probation committee and the juvenile probation board or committee shall continue to exercise their respective powers and duties as fixed by state laws, except as in this charter otherwise provided.

The superior court judges of the city and county presiding in the department or departments for the hearing and disposition of criminal cases and proceedings shall, by order entered in the minutes of the court in the criminal department or departments thereof, appoint the adult probation officer.

The judge of the superior court of the city and county who has been, or who hereafter may be, designated the judge of the juvenile court, shall, by order entered in the minutes of the court, appoint the probation officer of the juvenile court.

The adult probation officer shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the adult probation board or committee created by state law.

The probation officer of the juvenile court shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the juvenile probation board or committee created by state law.

The salaries of the adult probation officer, the probation officer of the juvenile court, their assistants, deputies and employees shall be fixed by the board of supervisors in the same manner as for other officials and employees of the city and county.

The adult probation officer, the probation officer of the juvenile court and their assistants and deputies shall have the powers conferred upon adult probation officers, probation officers of the juvenile court, their assistants and deputies, by the laws of the State of California; and they

shall perform all of the duties prescribed by such laws, and such additional duties as may be prescribed by ordinances of the board of supervisors.

The civil service provisions of this charter shall apply to and govern the assistants, deputies and employees of the adult probation officer and the probation officer of the juvenile court. For purposes of this charter the adult probation officer shall be the appointing officer as to his assistants, deputies and employees, subject to confirmation as aforesaid; and the said probation officer of the juvenile court shall be the appointing officer as to his assistants, deputies, and employees, subject to confirmation as aforesaid.

Any person who has served as an assistant, deputy or employee of such adult probation officer or probation officer of the juvenile court, or in the probation department of the city and county for a continuous period of one year immediately prior to the time this charter shall go into effect, and who shall be actually serving as such assistant, deputy, or employee at that time, is hereby declared to be appointed within the civil service provisions of this charter to the office or position in which he may then be serving; and shall be entitled to all the benefits of this charter thereafter.

The pension and retirement provisions of this charter shall apply to and govern the adult probation officer, the probation officer of the juvenile court, their assistants, deputies and employees.

DEPARTMENTS UNDER CHIEF ADMINISTRATIVE OFFICER

Chief Administrative Officer

SECTION 59. The mayor shall appoint as chief administrative officer a qualified person who shall have been a resident of the State of California for at least five years immediately preceding his appointment. The requisite qualifications of such appointee shall be administrative and executive ability and experience for the position to be filled. The first such appointment shall be made immediately after twelve o'clock noon on the 8th day of January, 1932. He shall be paid an annual salary of twelve thousand dollars ($12,000).

He shall be subject to suspension and removal in the same manner as elective officers. He shall also be subject to removal by a vote of not less than two-thirds of the board of supervisors, on the basis of written charges, and, if he so request, only after a public hearing on such charges before the board of supervisors not less than five days nor more than fifteen days after the filing thereof, and prior to the date on which the supervisors shall vote on the question of his removal, but on the filing of written charges, and pending and during such hearing, the supervisors, by majority vote, may suspend him from office. The written charges and any reply thereto by the chief administrative officer shall be entered at length in the journal of the board of supervisors. The action of the board of supervisors in removing the chief administrative officer shall be final.

Powers and Duties of Chief Administrative Officer

SECTION 60. The chief administrative officer shall be responsible to the mayor and to the board of supervisors for the administration of all affairs of the city and county that are placed in his charge by the provisions of this charter and by ordinance, and to that end he shall have power and it shall be his duty to exercise supervision and control over all administrative departments which are under his jurisdiction; to appoint the heads of departments under his control and the members of advisory and other boards provided by this charter or by ordinance to be appointed by the chief administrative officer; to prescribe general rules and regulations for the administrative service under his control; to have a voice but no vote in the board of supervisors, with the right to report on or to discuss any matter before the said board concerning the affairs of the departments in his charge; to make such recommendations and propose such measures to the mayor, the board of supervisors, or committees thereof, concerning the affairs of the city and county in his charge as he may deem necessary; to coordinate the functioning of the several departments of the city and county charged with powers and duties relating to control of traffic; and to provide for the budgeting and control of publicity and advertising expenditures of the city and county.

The chief administrative officer may designate an officer or an employee in any department under his jurisdiction to exercise the powers and perform the duties of any county office not specifically designated by this charter.

Administrative Departments Under Chief Administrative Officer

SECTION 61. From and after twelve o'clock noon on the 8th day of January, 1932, the functions, activities and affairs of the city and county that are hereby placed under the direction of the chief administrative officer by the provisions of this charter, and the powers and duties of officers and employees charged with specific jurisdiction thereof, shall, subject to the provisions of section 2 and section 20 of this charter, be allocated by the chief administrative officer, among the following departments:

DEPARTMENT OF FINANCE AND RECORDS, which shall include the functions and personnel of the offices of tax collector, registrar of voters, recorder, county clerk and public administrator, and shall be administered by a director of finance and records who shall be appointed by the chief administrative officer and hold office at his pleasure. The public administrator shall appoint and at his pleasure may remove an attorney who shall be paid an annual salary of eight thousand dollars ($8,000). He may also appoint such assistant attorneys as may be provided by the budget and annual appropriation ordinance.

PURCHASING DEPARTMENT, which shall include the functions and personnel of the bureau of supplies, the operation of central stores and warehouses, and the operation of central garages and shops, and shall be

administered by the purchaser of supplies who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Real Estate Department, which shall include the functions and personnel of the office of the right-of-way agent as established in the bureau of engineering at the time this charter shall go into effect, and also the control, management and leasing of the exposition auditorium.

Department of Public Works, which shall include the functions and personnel of the department of public works, as established at the time this charter shall go into effect, with the exception of functions and personnel which are established by this charter under the management, direction and control of the public utilities commission, and which department shall also include the functions and personnel of the telephone exchange. This department shall be administered by the director of public works, who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Department of Electricity, which shall include the functions and personnel of the department of electricity as established at the time this charter shall go into effect. The department shall be administered by a chief of department who shall, from and after twelve o'clock noon on the 8th day of January, 1932, have the powers and duties of the joint board of fire and police commissioners composing the joint commission in charge of the department of electricity, at which time the joint commission shall be abolished. The premises of any person, firm or corporation may, for the purpose of police or fire protection, be connected with the police or fire signal or telephone system of the city and county upon paying a fair compensation for such connection and the use of the same, provided that any such connection shall require the approval of the chief of the department of electricity and shall not in any way overload or interfere with the proper and efficient operation of the circuit to which it is connected. The conditions upon which such connection shall be made and the compensation to be paid therefor shall be fixed by the board of supervisors by ordinance upon the recommendation of the chief of the department.

Street Traffic Advisory Board, which is hereby created, and which shall consist of the chief administrative officer as chairman, the chief of police, the director of public works, the chairman of the city planning commission, the superintendent of the department of electricity, the municipal judge presiding over the traffic court, and a member of the board of supervisors to be appointed by the president thereof. The board shall meet at least once a month. It shall have the power and duty of considering ways and means of effectively coordinating the activities of city and county departments having responsibilities relating to street traffic, to the end that street traffic congestion and hazards throughout the city and county shall be relieved so far as possible. The board shall hear and consider complaints of citizens with respect to street traffic matters. The recommendations of the board shall be made in writing and shall be available to the public.

Department of Public Health, which shall include the functions, institutions and personnel of the department of public health as existing at the time this charter shall go into effect, and which shall include also the maintenance and operation of the institution known as the juvenile detention home, and the personnel engaged in such maintenance and operation. Said department shall be administered by a director of health, who shall be a regularly licensed physician or surgeon in the State of California, with not less than ten years' practice in his profession immediately preceding his appointment thereto. He shall be appointed by the chief administrative officer and shall hold office at his pleasure, provided that the incumbent health officer at the time this charter shall go into effect shall be deemed appointed to such office. The director of public health shall have and continue the powers and duties of the health officer and the board of health, from and after twelve o'clock noon on the 8th day of January, 1932, at which time the terms of members of said board shall terminate, and such board as theretofore existing shall be abolished. [*Sect. 660 and 662 of the Welfare and Institutions Code gives jurisdiction of the juvenile dentention hame to the board of supervisors and juvenile probation committee.*]

Health Advisory Board. There is hereby created a health advisory board of seven members, three of whom shall be physicians and one a dentist, all regularly certificated. Members of the board shall serve without compensation. They shall be appointed by the chief administrative officer for terms of four years; provided, however, that those first appointed shall classify themselves by lot so that the terms of one physician and one lay member shall expire in 1933, 1934 and 1935, respectively, and the term of one member in 1936.

Such board shall consider and report on problems and matters under the jurisdiction of the department of public health and shall consult, advise with and make recommendations to the director of health relative to the functions and affairs of the department. The recommendations of such board shall be made in writing to the director of health and to the chief administrative officer.

County Welfare Department, which shall include the functions and personnel of the county welfare bureau as established at the time this charter shall go into effect. *Refer to Section* 61.1.

Coroner's Office, which shall include the functions and personnel of the existing office of coroner as established at the time this charter shall go into effect.

Horticultural Inspection Department, which shall include the functions and personnel of the office of horticultural commissioner as established at the time this charter shall go into effect.

Department of Weights and Measures, which shall include the functions and personnel of the office of sealer of weights and measures as established at the time this charter shall go into effect.

PUBLIC WELFARE DEPARTMENT

SECTION 61.1.

Subdivision 1. There is hereby established a public welfare department. This department shall consist of a welfare commission of five members, a director of public welfare, and such employees and assistants as may be necessary to carry out the work and functions of said department.

Subdivision 2. The members of the welfare commission shall be appointed thereto by the mayor and shall be selected for their respective positions on the basis of their interest in and understanding of the problems of public welfare. The members of said commission shall serve without compensation and no person shall be eligible to serve on said commission while holding a salaried public office, position or employment.

Subdivision 3. The term of office of the members of the said commission, subject to the provisions hereof relative to removal and the terms of the first members of the commission, shall be four years. Within thirty days after this amendment shall become effective the mayor shall appoint five members to said welfare commission, one member to be appointed for a term to expire on the 15th day of January, 1938; one for a term to expire on the 15th day of January, 1939; one for a term to expire on the 15th day of January, 1940, and two for terms to expire on the 15th day of January, 1941; and upon the expiration of the terms of each of said members of said commission so appointed the mayor shall fill the vacancy arising by reason of the expiration of said term by the appointment of a member to said commission for a term of four years. Vacancies occurring in the membership of said commission shall be filled by an appointment to be made by the mayor for the unexpired term of said person in whose place said appointment is made; and when the term of any member of said commission shall expire, then said appointment shall be made for the full period of four years from the date of the expiration of the term. All vacancies shall be filled within thirty days of the occurrence thereof.

Subdivision 4. Members of the commission shall be subject to removal from office by the mayor for cause, but only upon written charges made and signed by the mayor, copy of said charges to be served upon the offending commissioner; and said charges shall be heard by the mayor and on said hearing of said charges the said commissioner so charged shall have the opportunity to appear and to be heard.

Subdivision 5. The commission shall be a policy-determining and supervisory body and shall have all the powers provided for in section 19 of the charter.

Subdivision 6. The commission shall appoint and, subject to the budgetary provisions of this charter, fix the salary of a director of public welfare who shall serve at the pleasure of said commission and shall not be subject to the civil service provisions of the charter. Said director shall possess qualifications and experience essential to the conduct of a complete program of public welfare. Said director shall be the chief executive of the department and shall have all the powers provided for chief executives as set forth in section 20 of the charter. He shall be responsible for the enforcement of the rules and regulations of the commission and, upon the recommendation of the commission, shall have the power to establish such divisions and bureaus as may be necessary for the administration of relief and welfare in the City and County of San Francisco.

Subdivision 7. All employees in the public welfare department, with the exception of the director thereof, shall be subject to the civil service provisions of the charter and, subject to said provisions, the director of public welfare may employ such employees as may be necessary for the carrying out of the work and functions of the department. The functions and duties of the county welfare department as esablished and existing at the time this amendment shall go into effect shall be transferred and shall be included in the public welfare department and the personnel of said county welfare department shall be so transferred and shall hold their respective positions under the same conditions and upon the same tenure as the same were held in the county welfare department. The functions of the Citizens' Emergency Relief Committee appointed pursuant to Ordinance No. 19.07120 shall be transferred to said public welfare department.

In all cases where there are no civil service lists available from which any position existing under the Citizens' Emergency Relief Committee, at the effective date of this amendment, can be filled, examinations shall be held by the civil service commission within six months after said date to establish a list or lists of eligibles to fill said positions. Any person who has served under the general supervision of the Citizens' Emergency Relief Committee for a period of one year continuously next prior to the effective date of this amendment and who shall actually be employed under the supervision of said Citizens' Emergency Relief Committee on said date shall, upon obtaining a passing mark on any examination held by said civil service commission for his position, be allowed an additional credit of five per cent (5%) in making up the list of eligibles secured by such examination. The civil service commission shall be allowed a period of six months from the effective date of this amendment within which to classify or reclassify, or hold examinations for eligible lists for the positions now existing under said Citizens' Emergency Relief Committee, and pending the classification of said positions and the holding of examinations therefor, where the same is necessary, the incumbents in said positions shall be entitled to continue in their positions and receive the compensation provided by law for their services.

Subdivision 8. Said public welfare department shall exercise all of the functions exercised by the county welfare department and by the Citizens' Emergency Relief Committee as the same exist at the time this amendment is approved by the Legislature of the State of California and shall perform such other duties and have such other functions as may be authorized by the board of supervisors of the City and County of San Francisco or required by the government of the United States or the State of California or any department or agency thereof. *Ratified by the Legislature,* April 14, 1937.

DEPARTMENT AND BUREAU HEADS — CONTINUED

SECTION 62. Offices heretofore elective which are, by the provisions of this charter, made appointive, shall come within the civil service provisions of this charter and any incumbent in any such office at the time this charter shall be ratified by the State Legislature shall, if he has held such office for one year continuously prior thereto, be deemed

appointed to such position, at his then existing salary, under the civil service provisions of this charter, and thereafter shall hold office under such provisions; provided that such salaries so continued shall apply only to such incumbents as long as they legally hold such positions and, on the appointment of a successor to any such incumbent, the salary of such position shall be subject to the salary standardization provisions of this charter and shall not in any case exceed six thousand dollars ($6,000) per annum.

Other positions as heads of departments, bureaus, offices or institutions which have heretofore been exempt from charter civil service provisions, are hereby declared to be subject to the civil service provisions of this charter unless specifically exempted, and any incumbent in any such position at the time this charter shall be ratified by the State Legislature shall, if he has held office for one year continuously prior thereto, be deemed appointed to such position under the civil service provisions of this charter and thereafter shall hold office under such provisions. *Refer to Digest.*

CONTROLLER

Controller—Appointment and Removal

SECTION 63. There shall be a controller, who shall be appointed by the mayor, subject to confirmation and approval by the board of supervisors. Such appointment shall be made solely on the basis of qualifications by training and experience for the position to be filled. He may be removed by the supervisors by a two-thirds vote. He shall receive an annual salary of ten thousand dollars ($10,000).

The incumbent in the office of auditor on the 7th day of January, 1932, provided he has held such office for one year continuously prior thereto, shall be deemed appointed at his existing salary under the civil service provisions of this charter, to the position of county accountant, which position is hereby created.

General Powers and Duties of Controller

SECTION 64. The controller shall be the successor of the auditor, and shall have the powers and duties of a county auditor, except as in this charter otherwise provided. He shall be the auditor and chief accounting officer of the city and county, and shall exercise general supervision over the accounts of all officers, commissions, boards and employees of the city and county charged in any manner with the receipt, collection or disbursement of city and county funds or of other funds, in their capacity as city and county officials or employees. He shall have the power and duty of prescribing the method of installing, keeping and rendering accounts of, and the financial reports to be rendered by, the several officers, boards and employees of the city.

The controller shall keep accounts showing the financial transactions of all departments, offices and other subdivisions of the city and county. Such accounts and the accounting procedure shall be adequate to record (a) all budgeted revenues and appropriations, together with additions

or transfers thereto, and to show at all times the amount of encumbrances, expenditures or transfers therefrom, and the balances therein; (b) all revenues accrued and liabilities incurred; (c) all cash receipts and disbursements; and (d), in general, all transactions affecting the acquisition, custody or disposition of values.

Subject to the provisions of this section, the public utilities commission shall maintain separate accounts for each utility in such manner as to exhibit exact and complete financial results of ownership, management and operation; the actual cost of each utility; all costs of maintenance, extension and improvement; all operating expenses of every description; the general expenses of the commission and bureaus thereof apportioned to each such utility; the amount paid or set aside for depreciation, insurance, interest and sinking fund; and estimates of the amount of taxes that would be chargeable against such property and the revenue thereof if privately owned and operated. All accounts shall be maintained in accordance with forms and requirements of the state railroad commission for public utilities engaged in like character of service, in so far as these shall be applicable to publicly owned and operated utilities.

It shall be the duty of the controller to determine, where practicable, the unit cost of work done by the city and county for the purpose of determining whether similar work could be done under public contract at a lower cost. The controller shall devise adequate systems of internal check of all departments and offices of the city and county relative to the custody, collection or disbursement of moneys.

Controller's Reports

SECTION 65. The controller shall annually make a complete financial report which shall be audited and distributed as provided in section 68 of this charter. The controller shall also make a quarterly report not later than the 25th day of the month succeeding the last preceding quarter, showing a summary statement of revenues and expenditures for the preceding quarter and for that portion of the fiscal year ending on the last day of such preceding quarter. Such statement shall include all general and funding accounts and shall be detailed as to assets, liabilities, income, expenditures, appropriations and funds, in such manner as to show the financial conditions of the city and county and of each department, office, bureau or division thereof, for that portion of the fiscal year to and including the preceding quarter, and with comparative figures for the similar period in the preceding fiscal year. The controller shall at the same time prepare statements showing at the end of each quarter the cash position of the city and county (and the unencumbered balance in each fund). He shall also prepare quarterly for each of the several funds a summary of the resources available and estimated to be collectible, obligations authorized and estimated to be expendable, and surplus in such a manner as to show the estimated cash position of each fund at the end of the fiscal year. He shall also prepare monthly and transmit to all department heads concerned, reports showing the allowances, expenditures, encumbrances and unencumbered balances of each revenue and expenditure appropriation. A copy of each such quarterly report

and special fiscal reports as requested, shall be transmitted to the mayor, the board of supervisors, the chief administrative officer, and kept on file in the controller's office. *Ratified by the Legislature,* January 26, 1935.

Audits by Controller

SECTION 66. The controller shall audit the accounts of all boards, officers and employees of the city and county charged in any manner with the custody, collection, or disbursement of funds. The controller shall audit monthly all accounts of money coming into the hands of the treasurer. He shall make an audit monthly of each departmental revolving fund authorized by this charter or by the board of supervisors.

When requested by the mayor, the board of supervisors, the chief administrative officer, or any board or commission for its own department, he shall audit the accounts of any officer or department, and on the death, resignation, removal, expiration of term or retirement of the head of any department or office, or any officer or employee charged with the receipt, collection or disbursement of money, shall make an audit of the accounts of such department, officer or employee.

Custody and Examination of Official Bonds

SECTION 67. The controller shall be the custodian of all official bonds, excepting the bond of the controller, which shall be in the custody of the mayor. The controller must at least once in every six months examine all official bonds and investigate the sufficiency and solvency of the sureties thereon, and forthwith report in writing the facts to the mayor. Upon receipt of such report, the mayor shall take such action as shall be necessary to protect the city and county, and may require new bonds and may suspend any officer or employee until a sufficient bond is filed and approved. The mayor shall make similar periodic examination of the controller's bond.

Annual Audits by Supervisors

SECTION 68. The board of supervisors shall order an annual audit of the controller's books of accounts, records and transactions, to be made by one or more certified public accountants. The report of such auditor or auditors for the fiscal year shall be printed and a copy thereof furnished to the mayor, each member of the board of supervisors, the chief administrative officer, and the controller and to such citizens as may apply therefor.

BUDGET AND FISCAL PROCEDURE

Budget Estimates

SECTION 69. The fiscal year for the city and county shall begin on the 1st day of July of each year.

The budget estimate for every department and office of the city and county, whether under an elective or an appointive officer or a board or

commission, and separately for each utility under the control of the public utilities commission, shall be filed by the executive of such department with, and shall be acted upon by, such board or commission. All budget estimates shall be compiled in such detail as shall be required on uniform blanks furnished by the controller. The public utilities commission and the board of education must hold public hearings on their respective budget proposals. Each such elective and appointive officer, board or commission shall, not later than the 15th day of February of each year, file with the controller for check as to form and completeness two copies of the budget estimate as approved.

The chief administrative officer shall obtain in ample time to pass thereon budget estimates from the heads of departments or offices subject to his control, and, after adjusting or revising the same, not later than the 15th day of February he shall transmit such budget estimates to the controller.

The controller shall check such estimates and shall, upon his request, be furnished with any additional data or information. Not later than the 15th day of March of each year he shall consolidate such budget estimates and transmit the same to the mayor.

He shall at the same time transmit to the mayor a summary and recapitulation of such budget estimates, segregated by separate departments or offices and units thereof, or by purposes for non-departmental expenditures, and arrange according to classification of objects of expenditure, as required by the controller, to show the amount of proposed expenditures and estimated revenues in comparison with the current and previous fiscal year's expenditures and revenues.

He shall submit at the same time (1) statements showing revenues and other receipts, including the estimated unencumbered surplus in any item or fund at the beginning of the ensuing fiscal year, segregated according to specific or general purposes to which such revenues or receipts are legally applicable, for the last complete fiscal year and for the first six months of the current fiscal year, with estimates thereof for the last six months of the current fiscal year, together with estimates of such revenues and receipts for the ensuing fiscal year; (2) statements of the amounts required for interest on, and sinking fund or redemption of, each outstanding bond issue, and for tax judgments and other fixed charges, together with estimates of interest required on bonds proposed to be sold during the ensuing fiscal year, and statements of the city's authorized debt, and judgments outstanding at the time the budget estimates are submitted.

The mayor shall hold such public hearings on these budget estimates as he may deem necessary and may increase, decrease or reject any item contained in the estimates, excepting that he shall not increase any amount nor add any new item for personal services, materials, supplies or contractual services, but may add to the requested appropriations for any public improvement or capital expenditure; provided, however, that the budget estimates of expenditures for any utility, within the estimated revenues of such utility, shall not be increased by the mayor or board of supervisors. *Ratified by the Legislature,* January 26, 1935.

Form of Budget Estimates

SECTION 70. The classification of proposed expenditures included in budget estimates shall be uniform for all departments, offices, bureaus, divisions and branches. The estimates shall include or be accompanied by the following information:

(1) An itemized estimate of the total expense of conducting each department, bureau, division, office or board for the ensuing fiscal year, together with a separate schedule of the proposed work program.

(2) Statements of the expenditures by items for the last complete fiscal year, and for the first six months of the current fiscal year, together with an estimate of probable expenditures by items for the last six months of the current fiscal year.

(3) The reasons for proposed increases or decreases, as compared with the current fiscal year, in any items of the proposed estimate.

(4) A schedule of positions and compensations showing any increases or decreases requested in the number of positions or rates of pay.

(5) Such other information as the mayor or the chief administrative officer may deem desirable.

Salary Deductions

SECTION 70.1. Whenever, in the judgment of the mayor and the board of supervisors, extraordinary economic conditions actually exist due to unemployment, fire, earthquake, flood or other calamity, which adversely affect the life, health and welfare of the citizens of the city and county or of any considerable portion thereof, the board of supervisors, by a three-fourths vote of all of its members, with the concurrence of the mayor, shall have power as follows, to-wit:

Sub. 1. To officially declare that a public emergency exists, and to fix the approximate anticipated time during which said emergency shall continue, provided that no such emergency shall be anticipated to continue beyond the end of the fiscal year during which the same is declared, unless such emergency be declared subsequent to the 1st day of January of said year, in which event the said emergency may be anticipated to continue until the end of the next succeeding fiscal year.

Sub. 2. To provide that while said emergency as declared shall continue to exist there shall be deducted from the gross salaries and compensations, exclusive of pension and retirement allowances, of each officer and employee of the City and County of San Francisco, including officers and employees of the board of education, not more than the respective amounts hereinafter set forth. Said deductions shall be made on the basis of the salary and compensation rate of said several officers and employees which were in effect during the calendar month immediately preceding the month during which said emergency was declared and not reduced by this section.

If said salary and compensation deductions are not reflected in the annual budget and appropriation ordinances, as set forth in subdivision 3 of this section, the amount of said deductions shall be used for the purpose of meeting or alleviating the emergency which has been declared, or to balance any deficiency existing in the general funds of the

city arising by reason of the delinquency in the payment of taxes or other revenue as compared with the anticipated revenues over the same period. Provided that where salaries or compensations are paid out of bond funds, utility funds, or other trust funds, which are not provided from the revenues of the city, all deductions made shall revert to the respective funds from which said salaries or compensations are paid.

The maximum deductions from the salary or compensation of each officer or employe heretofore referred to shall be as follows, to-wit:

(a) From the salaries or compensation of officers or employees whose gross earnings exceed $100 per month and do not exceed $120 per month, three (3) per cent of the amount of the gross monthly earnings of each of said officers or employees.

(b) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $120 per month and do not exceed the sum of $150 per month, seven (7) per cent of the gross monthly earnings of each of said officers or employees.

(c) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $150 per month, and do not exceed the sum of $185 per month, ten (10) per cent of the gross monthly earnings of each of said officers or employees.

(d) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $185 per month, and do not exceed the sum of $275 per month, twelve and one-half (12½) per cent of the gross monthly earnings of each of said officers or employees.

(e) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $275 per month, and do not exceed the sum of $600 per month, fifteen (15) per cent of the gross monthly earnings of said officers or employees.

(f) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $600 per month and do not exceed the sum of $834 per month, eighteen (18) per cent of the gross monthly earnings of each of said officers or employees.

(g) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $834 per month, twenty (20) per cent of the gross monthly earnings of each of said officers or employees.

(h) Provided, however, that no more than five and one-half (5½) per cent of the gross monthly earnings of per diem employees whose compensations are fixed on the basis of a five-day week shall be deducted from the salaries or earnings of any such employee.

Said deductions shall be made from said earnings or compensations in monthly or semi-monthly installments according to the time at which said salaries or compensations are paid, provided that where the earnings of any officer or employee are on an hourly or per diem basis deductions based on his total earnings for the month shall be deducted from the installment of said earnings paid for the last half of the month.

Sub. 3. Should any such emergency declared as herein provided be anticipated to continue into the next fiscal year following the one during which said emergency has been declared, the heads of all

departments, the controller and the mayor, in preparing or submitting their respective annual budget estimates, shall base and estimate the net salaries and compensations to be paid to the officers and employees of their respective departments, or, in the case of the mayor and the controller, to be paid to the officers and employees of all departments, at amounts not to exceed the said salaries and compensations as reduced by the above-mentioned percentages on the above-mentioned salary and compensation rates, and the annual appropriation and salary ordinance shall fix said net salaries and compensation accordingly. When any emergency is declared after the annual budget is prepared or adopted, or after the annual appropriation or salary ordinances are enacted, and before the annual tax rate is fixed as provided by law, said budget and said appropriation and salary ordinances may be revised or reenacted, so that the deductions herein authorized to be made may be reflected in the amount of the tax levy.

Sub. 4. All of such deductions, whether made after the passing of the annual budget appropriation and salary ordinance or included therein, shall be deemed as temporary deductions from the salaries and compensations of said officers and employees, and shall be continued only during the anticipated period for which said emergency has been declared.

Sub. 5. In making the deductions herein provided for, the value of board, room and laundry or other maintenance furnished by the city and county to any officer or employee, when the same is made a part of his compensation by the civil service commission, shall be added to the monetary salary or compensation paid to said employee, and the amount of deductions from said salary or compensation shall be based on said monetary salary plus the value of said board, room and laundry or other maintenance, provided that no deduction shall be made for quarters furnished to any officer or member of the fire department.

Sub. 6. During the period that any emergency shall exist after being so determined as hereinbefore provided, the controller, with the approval of the mayor and the board of supervisors, may reallocate any unencumbered balance, or any part thereof, to the credit of any department or office exclusive of moneys or appropriations made or required to be made to any bond, bond interest, bond redemption, pension, utility, or trust fund, so that the same shall be available to meet the necessities of said emergency, irrespective as to whether the amount allocated to said department or office is fixed by this charter or is the result of a tax provided by said charter to be levied for said department. Should the period during which said emergency is anticipated to exist extend beyond the end of the fiscal year in which the same was declared to exist, the mayor, with the approval of the board of supervisors, may reduce the amount of any mandatory appropriation provided to be allocated to any office or department; or may reduce the amount of any tax provided by the charter to be levied for the support or maintenance of any department or office. Provided that no such deduction in appropriation, provided by this charter to be made to any department, or in the reallocation

of funds, or reduction in the amount of said tax otherwise provided to be levied to produce funds for any department, shall be greater than is necessary to reflect the deductions in salaries provided in the section to be made by reason of said emergency.

The provisions of this section shall have precedence over conflicting provisions of this charter, but nothing herein contained shall adversely affect the rights of the officials and employees as set forth in section 71 of the charter, during the period when no public emergency exists. Contributions by the city and county and by members of the San Francisco City and County Employees' Retirement System to, and benefits, pension payments and allowances under said retirement system, shall be calculated on the basis of gross salaries and compensations of such members in the same manner and amounts as if no deductions from said gross salaries and compensations were made under this section.

Within ten days after this amendment becoming effective, the board of supervisors and the mayor shall officially declare, by resolution, that a public emergency exists in San Francisco within the meaning of this section; and that it is anticipated that said emergency will continue until the end of the fiscal year 1933-1934, and the deductions from salaries and compensations at the maximum rates herein provided shall be effective until the end of said fiscal year.

Should any emergency be declared pursuant to the provisions of this section, which will be effective after the end of the fiscal year 1933-1934, which, in the judgment of the board of supervisors, will necessitate deductions from the salaries of the officers and employees of the city and county, over and above the amounts herein provided for, the board of supervisors, by unanimous vote of all of its members, and with the approval of the mayor, may authorize a further deduction from the salaries and compensations of any of said officers and employees by increasing the maximum deductions in this section provided for, up to and including an amount not to exceed twenty-five (25) per cent of said respective salaries or compensations as the same existed before any deduction by authority of this section. *Ratified by the Legislature,* April 24, 1933. *Refer to Digest.*

Personal Service Estimates

SECTION 71. All increases in salaries or wages of officers and employees shall be determined at the time of the preparation of the annual budget estimates and the adoption of the annual budget and appropriation ordinances, and no such increase shall be effective prior to the fiscal year for which the budget is adopted. Salary and wage rates for classes of employments subject to salary standardization, as in this charter provided, shall be fixed in the manner provided in this charter. Salary and wage rates for classes of employment not subject to salary standardization, exclusive of compensations fixed by this charter, shall be recommended by the officer, board or commission having appointive power for such employments, and fixed by the budget and the annual salary ordinance. Pending the adoption of salary standards as in this

charter provided, the salary and wage rates for positions subject to such standardization shall be as recommended by the officer, board or commission having appointing power for such positions and fixed by the budget and annual salary ordinance; provided that the minimum compensation for employees subject to the civil service provisions of this charter shall be not less than fifty cents (50c) per hour nor less than one hundred six dollars ($106) per month; and provided further that any compensation paid as of January 1, 1931, to an incumbent who legally held a position in the city and county service at that time, shall not be reduced so long as such incumbent legally holds such position. No compensation other than the minimum as in this section provided shall be increased so as to exceed the salary or wage paid for similar services of like character and for like service and working conditions in other city departments or in private employments, nor so as to exceed the rate fixed for such service or position in the proposed schedule of compensations issued by the civil service commission under date of April 9, 1930, except as such proposed schedule or compensation is amended as provided in this charter, or extended by the civil service commission to include classification not included therein. *Ratified by the Legislature*, February 8, 1940. *Refer to Digest.*

Adoption of the Budget and the Appropriation Ordinance.

SECTION 72. Not later than the 1st day of May in 1932, and in each year thereafter, the mayor shall transmit to the board of supervisors the consolidated budget estimates for all departments and offices of, and the proposed budget for, the city and county for the ensuing fiscal year, including a detailed estimate of all revenues of each department and an estimate of the amount required to meet bond interest, redemption and other fixed charges of the city and county, and the revenues applicable thereto. He shall, by message accompanying such proposed budget, comment upon the financial program incorporated therein, the important changes as compared with the previous budget, and bond issues, if any, as recommended by him.

The mayor shall submit to the board of supervisors, at the time that he submits said budget estimates and said proposed budget, a draft of the annual appropriation ordinance for the ensuing fiscal year, which shall be prepared by the controller. This shall be based on the proposed budget and shall be drafted to contain such provisions and detail as to furnish an adequate basis for fiscal and accounting control by the controller of each revenue and expenditure appropriation item for the ensuing fiscal year. Upon submission it shall be deemed to have been regularly introduced, and together with the proposed budget, shall be published as required for ordinances.

The detail of the proposed budget to be published shall be as follows:

1. **The total cost for conducting each department, bureau, office, board or commission for the ensuing fiscal year, segregated according to basic objects of expenditure for each.**
2. **A detail schedule of positions and compensations, showing any increases or decreases in any department or office.**
3. **A detail schedule of items for capital outlay.**

4. The aforementioned consolidated estimates and schedules shall also include by items contained therein the following information:
(a) Expenditures for the last complete fiscal year.
(b) Estimated expenditures for the current fiscal year.
(c) Proposed increases or decreases as compared with the budget allowances for the current fiscal year.

The board of supervisors shall provide printed copies of the mayor's budget message and proposed budget thus prepared, including comparative expenditures and revenues for the current and preceding fiscal years and other information transmitted therewith, for official use and public demand as requested.

The board of supervisors shall fix the date or dates, not less than five days after publication as in this section provided, for consideration of and public hearings on the proposed budget and proposed appropriation ordinance.

The board of supervisors may decrease or reject any item contained in the proposed budget, but shall not increase any amount or add any new item for personal services or materials, supplies, or contractual services, for any department, unless requested in writing so to do by the mayor, on the recommendation of the chief administrative officer, board, commission or elective officer, in charge of such department.

The board of supervisors may increase or insert appropriations for capital expenditures and public improvements.

After public hearing, and not earlier than the 15th day of May, nor later than the 1st day of June, the board shall adopt the proposed budget as submitted or as amended and shall pass the necessary appropriation ordinance. If the appropriation ordinance as submitted by the mayor is amended by the supervisors, the appropriation ordinance shall be readvertised prior to final reading or passage, in the manner required for ordinances.

Any item in such appropriation ordinance except for bond interest, redemption or other fixed charges, may be vetoed in whole or in part by the mayor within ten days of receipt by him from the clerk of the board of supervisors of the ordinance as passed by the board, and the board of supervisors shall act on such veto not later than the 20th day of June.

The several items of expenditure appropriated in each annual appropriation ordinance, being based on estimated receipts, income or revenues which may not be fully realized, it shall be incumbent upon the controller to establish a schedule of allotments, monthly or quarterly as he may determine, under which the sums appropriated to the several departments shall be expended. The controller shall revise such revenue estimates monthly. If such revised estimates indicate a shortage the controller shall hold in reserve an equivalent amount of the corresponding expenditure appropriations set forth in any said annual appropriation ordinance until the collection of the amounts as originally estimated is assured, and in all cases where it is provided by this charter that a specified or minimum tax shall be levied for any department the amount of the appropriation in any annual appropriation ordinance derived from taxes shall not exceed the amount actually

produced by the levy made for said department. The controller in issuing warrants or in certifying contracts or purchase orders or other encumbrances, pursuant to section 86 of this charter, shall consider only the allotted portions of appropriation items to be available for encumbrance or expenditure and shall not approve the incurring of liability under any allotment in excess of the amount of such allotment. In case of emergency or unusual circumstance which could not be anticipated at the time of apportionment, an additional allotment for a period may be made on the recommendation of the department head and that of the chief administrative officer, board or commission and the approval of the controller. After the allotment schedule has been established or fixed, as heretofore provided, it shall be unlawful for any department or officer to expend or cause to be expended a sum greater than the amount set forth for the particular activity in the said allotment schedule so established, unless an additional allotment is made, as herein provided.

Subject to the restrictions hereinbefore in this section included, the several amounts of estimated revenue and proposed expenditures contained in the annual appropriation ordinance as adopted by the board of supervisors shall be and become appropriated for the ensuing fiscal year to and for the several departments, bureaus, offices, utilities, boards or commissions, and for the purposes specified, and each department for which an expenditure appropriation has been made shall be authorized to use the money so appropriated for the purposes specified in the appropriation ordinance, and within the limits of the appropriation. The appropriation ordinance shall constitute the authority for the controller to set up the required revenue and expenditure accounts. Appropriation items for bond interest, bond redemption, fixed charges and other purposes not appropriated to a specific department shall be subject to the administration of and expenditure by the chief administrative officer for the respective purposes for which such appropriations are made. *Ratified by the Legislature,* January 26, 1935.

Annual Salary Ordinance

Section 73. The number and rates of compensation for all positions continued or created by the supervisors in adopting each annual budget, and each annual or supplemental appropriation ordinance, shall be established and enumerated in an ordinance continuing and creating positions in city and county departments and offices, and providing the rates of compensation therefor, which ordinance shall be passed or amended at the same time as the annual or supplemental appropriation ordinance is passed. Such ordinance shall be subdivided for each department or office and each organization subdivision thereof. The number of positions enumerated therein shall be segregated by classes according to the civil service classification of employments and the positions in any department or office under any such class shall not be listed individually or subdivided, except where necessary to show varying rates of pay for employments included in any such class. Rates of compensation enumerated shall be those established by salary standardization schedules,

and shall not be listed for individuals or individual positions, except where the compensation of incumbents is higher than the rate fixed by salary standardization, which compensations shall not be reduced so long as the incumbents legally hold such positions. Any increase in the number of positions allowed for any department or office, and seniority or other compensation increases authorized as provided elsewhere in this charter for officers or employees, may be covered by amendment of the appropriate section of the ordinance herein referred to, provided that any such amendment shall include the entire section of such ordinance relating to the department or office in which the increase in number of positions or compensations shall occur. The said ordinance shall constitute the legal basis for check by the civil service commission or the controller as to the legality of the creation of any position in the city and county service and the rate of compensation fixed therefor. *Refer to Digest.*

Appropriations to Meet Utility Deficits

SECTION 74. In the event the public utilities commission and the mayor shall propose a budget for any utility which will exceed the estimated revenue of such utility, it shall require a vote of two-thirds of all members of the board of supervisors to approve such budget estimate and to appropriate the funds necessary to provide for the deficiency. No such budget of expenditures in excess of estimated revenues shall be so approved to provide for and include proposed expenditures for additions, betterments, extensions or other capital costs, which shall require financing by authorization and sale of bonds.

Departmental Revolving Funds

SECTION 75. The supervisors, on the recommendation of the mayor, in any proposed annual budget, may, in the approval of such budget and the annual appropriation ordinance therefor, establish departmental revolving funds to be used as petty cash funds for specific purposes and to be subject to settlement with, and audit by, the controller at least monthly, as provided in section 66. The mayor shall recommend and the supervisors shall establish revolving funds designated in this charter as the special election fund and the purchaser's revolving fund, and they shall respectively recommend and establish such revolving funds as may be necessary to facilitate the operation of each utility and institution of the city and county.

Appropriation Accounts—Designation of Funds

SECTION 76. Accounts shall be kept by the controller showing the amount of each class or item of revenue as estimated and appropriated in the annual appropriation ordinance, and the amounts collected. Accounts shall also be kept by the controller of each expense appropriation item authorized by the board of supervisors. Every warrant on the treasury shall state specifically by title and number the appropriation item against which such warrant is drawn.

Each such revenue and expense account shall show in detail the amount of the appropriation or appropriations made therefor by the supervisors, the amount drawn thereon, the amount of encumbrance for purchase orders, contracts or other obligations theretofore certified by the controller as against it, and the unencumbered balance to the credit thereof. This balance shall be the "unencumbered balance" as this term is used in this charter.

Transfers

SECTION 77. Upon written recommendation of the chief administrative officer, or a board or commission for the use of which funds have been appropriated, and the approval of the mayor, the board of supervisors may transfer an unencumbered balance, or part thereof, of an appropriation made for the use of one department, to another. No such transfer shall be made of utility, bond, school, pension or trust funds, except by way of loans as in this charter provided. On request of a department head and approval by the chief administrative officer, board or commission, respectively, and on the authorization of the controller, funds appropriated for a specific purpose of such department which become surplus may be transferred and used for another specific purpose within the department. The controller shall prescribe the method to be used in making payments for inter-departmental services.

Tax Levy

SECTION 78. On or before the 15th day of September of each year, the board of supervisors by ordinance shall levy a tax, the estimated proceeds of which, together with the total amount of receipts and revenues estimated to be received from all sources, will be sufficient to meet all appropriations made by the annual appropriation ordinance.

Revenue to meet current annual interest and redemption or sinking fund for outstanding bonds shall always be provided out of the tax levy; provided, however, that to the extent to which funds are appropriated by the public utilities commission, and available for annual interest and redemption or sinking fund on bonds issued for acquisition, construction or extension of any utility, no tax shall be levied therefor.

The tax levy shall not exceed the rate of one dollar and sixty-five cents ($1.65) on each one hundred dollars ($100) valuation of the property assessed in and subject to taxation by the city and county, exclusive of the following items: (1) State taxes, and taxes for the interest and sinking fund on bonded indebtedness of the city and county; (2) the cost of constructing, maintaining and improving (a) schools, (b) libraries, which tax shall not be less than four cents on each one hundred dollars, (c) parks and squares, which tax shall be not less than ten cents on each one hundred dollars, (d) playgrounds, which tax shall be not less than seven cents on each one hundred dollars, (e) for the art commission for the purpose of maintaining a symphony orchestra one-half cent on each one hundred dollars of said assessed valuation, (f) streets, sewers and buildings; (3) the cost of (a) elections, (b) civil service, which tax shall not be less than one-half cent on each one

hundred dollars, (c) obligations imposed by state legislative or constitutional enactment and (d) obligations imposed by vote of the people of the city and county. *Ratified by the Legislature,* May 17, 1935.

Emergency Reserve Fund

SECTION 79. The tax rate may be fixed by the board of supervisors so as to produce, by a specifically designated rate, as recommended by the mayor in any proposed annual budget and the appropriation ordinance therefor, an amount necessary for an emergency reserve fund, which fund is hereby created, for the purposes of meeting any emergency as defined in sections 16 or 25 of this charter. Appropriations from such emergency reserve fund shall be made only on the recommendation of the department head concerned, the approval of the chief administrative officer or the board or commission in charge of such department, the recommendation of the mayor to the board of supervisors that such appropriation be made, and the vote of three-fourths of the board of supervisors.

The balance in said emergency reserve fund at the end of any fiscal year shall be maintained and carried forward in said fund. The annual appropriation for said fund and the annual tax rate therefor shall not exceed one per centum of the amount of the levy required to meet all other expense appropriations unless and until the accumulated and unencumbered balance in said fund shall amount to a sum not to exceed three per centum of the tax levy required to meet all other expense appropriations in the then current fiscal year. The board of supervisors, on the recommendation of the mayor, may make appropriations to and may levy taxes for said emergency reserve fund in excess of said three per centum of the tax levy for all other purposes. *Ratified by the Legislature,* January 12, 1933.

Fund Balances—Supplemental Appropriations

SECTION 80. Unused and unencumbered appropriations or unencumbered balances existing at the close of any fiscal year in revenue or expense appropriations of the city and county for any such fiscal year, including such balances in revenue and expense appropriations provided under the provisions of section 78 of this charter for libraries, parks and squares, playgrounds and civil service in any such fiscal year, but exclusive of revenue or money required by law to be held in school, bond, bond interest, bond redemption, pension, trust, utility or other specific funds, or to be devoted exclusively to specified purposes other than annual appropriations, and together with revenues collected or accruing from any source during any such fiscal year, in excess of the estimated revenue from such source as shown by the annual budget and the appropriation ordinance for such fiscal year, shall be transferred by the controller, at the closing of such fiscal year, to a "cash reserve fund" which is hereby created and which may be used only in the manner authorized by section 81 of this charter; provided, however, that when the balance in said cash reserve fund

shall equal ten (10) per centum of the current or the last preceding tax levy no such transfer shall be made by the controller except on the recommendation of said controller, the approval of the mayor and the authorization of the board of supervisors, by majority vote.

Such unused and unencumbered appropriations, balance and revenue collections in excess of revenue estimates, as hereinbefore in this section defined, when not transferred to the cash reserve fund as hereinbefore in this section required or authorized, shall be held as surplus.

Such surplus shall be taken into account as revenue of the ensuing fiscal year; provided, however, that any such surplus created in the fiscal year 1933-34 or created or existing in any subsequent fiscal year may be appropriated by the board of supervisors at the last meeting of such board in any month, by means of an ordinance designated as a supplemental appropriation ordinance, on the recommendation of the chief administrative officer, or any board, commission or elective officer, respectively, and the approval and submission by the mayor of a supplemental budget estimate or request, in the same manner and subject to the same conditions, except time, as provided in this charter for the submission and approval of the annual budget and the appropriation ordinance. *Ratified by the Legislature,* January 12, 1933.

Cash Reserve Fund and Temporary Loans
Tax Anticipation Notes

SECTION 81. The board of supervisors, by annual tax levy, may gradually build up the cash reserve fund authorized and created by the provisions of section 80 of this charter. Said fund shall be used exclusively (1) for the payment in any fiscal year of legally budgeted expenditures for such year in anticipation of the collection, after the close of such fiscal year, of legally collectible taxes and other revenues, as set forth in the budget and the appropriation ordinance for such fiscal year, and (2) for paying that portion of the authorized expenses of the city and county for any fiscal year, which, as certified to said board by the controller, becomes due and payable and must be paid prior to the receipt of tax payments for such fiscal year; provided, that such cash reserve fund shall not at any time exceed the estimated expenditures for the first five months of the then current fiscal year, less the amount of estimated revenues and receipts from sources other than tax rate revenues.

In the event that funds are not available in such a cash reserve fund to meet authorized expenditures of any fiscal year, the board of supervisors, on the recommendation of the controller and the mayor, and the written approval of the officer, board or commission responsible for the management and control of the fund from which it is proposed that the temporarily idle balances be transferred or loaned may, by ordinance, authorize the treasurer to make temporary transfers or loans for specified periods of idle unencumbered balances in any fund in his custody, except a pension fund, at not less than the then current rate of interest paid by the banks to the city and county on city and

county funds deposited with such banks. Such approval by the officer, board or commission concerned shall specify that the amount proposed to be transferred or loaned from such fund will not be needed for the purpose of such fund prior to the date specified for its return. The fund from which such transfer or loan is made shall be charged or encumbered with the amount of such transfer or loan and such amount shall not be considered as available in such fund for any other appropriation or encumbrance for which any expenditures or payments must be made prior to the date on which the transfer or loan is repaid. Any transfer or loan made as herein authorized during the first half of any fiscal year shall be repaid prior to the 1st day of January of said year, and any transfer or loan made during the remaining one-half of said fiscal year shall be repaid prior to the 15th day of May of said year. Such loans shall be secured by and made solely in anticipation of the collection of taxes levied or to be levied for the current fiscal year, and such loans shall constitute the first demand on and shall be repaid from the first tax collections for such current fiscal year; provided, however, that tax anticipation loans made as hereinafter in this section authorized, shall constitute a prior lien on said taxes levied or to be levied or collected.

When funds shall be needed for the immediate requirements of the city and county in any fiscal year in accordance with appropriations made as authorized by this charter for such fiscal year, which payments may be made in advance of the receipt of income from such fiscal year, and when funds therefor cannot be made available as hereinbefore in this section authorized, the board of supervisors on the recommendation of the controller and the approval of such recommendation by the mayor, shall have power to borrow money on notes or other evidences of indebtedness on behalf of the city and county. Said power shall be exercised by ordinance or ordinances authorizing the borrowing of said money and the execution of said notes or other evidences of indebtedness. The aggregate amount of such notes or other evidences of indebtedness outstanding and unpaid at any one time during any part of the fiscal year in which said borrowing is made shall not be in excess of 25 per cent of the estimated aggregate amount of all taxes actually levied for such fiscal year. All such notes or other evidences of indebtedness shall be offered at public sale by the board of supervisors after not less than two days of advertising, not less than three days after the last day on which such advertising is published. Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the city and county; provided, however, that the rate of interest to be paid shall not exceed the sum of six (6) per centum per annum, and full authority is hereby given to said board of supervisors to fix, by resolution, the rate of interest on said notes or other evidences of indebtedness and the times and places where the principal sum of said notes or other evidences of indebtedness shall be paid. The principal amount of said notes or other evidences of indebtedness together with the interest thereon, issued and delivered under authority of this section shall be payable exclusively out of the taxes levied and collected by said city and county for the fiscal year during which the same are issued, and shall constitute a first lien and charge against the taxes collected during the half of the fiscal

year in which said money shall be borrowed and shall be repaid from the first moneys received from said taxes; and the amount of taxes so levied and collected shall be applied to the payment of said notes or other evidences of indebtedness before any part thereof is used for any other purpose; provided, however, that taxes levied for the payment of principal of, or interest on, any bonded indebtedness of said city and county now outstanding or hereafter created shall be applied to the purpose for which such taxes were levied, unless the money borrowed by such notes or other evidences of indebtedness issued against such tax levies is in fact applied to the payment of the principal and interest of such bonded indebtedness. If at the time said notes or other evidences of indebtedness, or any of them, become due and payable the funds in the city treasury available for the payment thereof shall be insufficient for the payment in full of all of said notes or other evidences of indebtedness then outstanding such funds shall be applied pro rata to the payment of the principal and interest of all of the notes or other evidences of indebtedness then issued and outstanding without preference or priority of any one note over any other by reason of prior issuance, or otherwise. Any of said notes or other evidences of indebtedness not paid prior to June 30 of the fiscal year during which the same are issued shall, nevertheless, be paid out of moneys received from the taxes of the said fiscal year, irrespective of the date of the receipt thereof, it being the intent and purpose of this section to provide for the payment of all notes or other evidences of indebtedness issued under authority of this section out of the taxes levied for the fiscal year during which said notes or other evidences of indebtedness are issued irrespective of the actual date of the collection of said taxes.

The board of supervisors shall have full power and authority to provide for the form of all notes or other evidences of indebtedness issued by authority of this section, as well as to fix the time and place for the payment of both the principal amount of said notes or other evidences of indebtedness and the interest to become due thereon; provided that all notes or other evidences of indebtedness issued for money borrowed during the first half of any fiscal year shall be payable not later than December 31 of said year; and all notes or other evidences of indebtedness issued for money borrowed during the second half of any fiscal year shall be payable not later than May 15 of such year, it being the intent and purpose of this section that the borrowing of money under authority hereof shall be solely for the purpose of anticipating receipt of income. The mayor, in preparing the consolidated budget estimate as provided by this charter, shall include therein a separate amount sufficient to meet the interest to be paid on any moneys borrowed under authority of this section. *Ratified by the Legislature,* April 14, 1937.

Receipt, Custody and Deposit of Funds

Section 82. Disbursement of all public or other funds in the custody of the treasurer, except reimbursement transfers between departments as provided in section 77, shall be made only on warrants drawn by the controller. All moneys and checks received by any officer or employee of the city and county for, or in connection with the business of, the city and county, shall be paid or delivered into the treasury not later

than the next business day after its receipt, and shall be receipted for by the treasurer. Daily statements of such receipts and deposits shall be prepared and transmitted to the controller and the treasurer. All pension funds and securities shall be deposited with the treasurer.

The treasurer, with the written approval of the mayor, the controller and the president of the board of supervisors, may deposit funds in his possession in any licensed national bank or banks within this state, or in any bank or banks authorized to do a banking business and organized under the laws of this state. A depositary bank shall furnish as security for such deposits bonds of the United States or of this state, or of any county, municipality, or school district within this state approved by the treasurer and the city attorney. The market value of bonds furnished as security shall be at least ten per cent in excess of the amount of the deposits secured thereby. The market value of the securities shall be maintained in such proportion at all times and the treasurer is hereby charged with the responsibility of enforcing this requirement. The amount of the deposit shall not exceed the face value of such bonds.

All deposits shall be conditional upon payment of a reasonable rate of interest, not less than two per cent per annum on daily balances. The rate of interest shall be fixed annually in the month of January of each year for such calendar year by the treasurer, the controller and the mayor, and such rate shall be reported in writing forthwith to the board of supervisors. Interest on all moneys so deposited shall be payable quarterly to the treasurer.

No deposit in any bank shall at any time exceed fifty per cent of the paid up capital stock of such bank, and while there are other depositary banks available, no deposit in any bank shall exceed ten per cent of the funds under the control of the treasurer available for deposit. Deposits shall be subject to withdrawal on joint demand of the treasurer and the controller. In the event of failure of any depositary bank to repay on demand any moneys so held on deposit, the treasurer, with the written approval of the mayor, may, after ten days' written notice to such bank, proceed to sell at public or private sale, any or all of the bonds so held by him as security. Ten days' notice of such sale shall be given by publication. At any time before the sale of the bonds the bank may repay the money deposited, with interest thereon and any expense that may have been incurred by the treasurer relating to or incident to such sale, and the bonds shall not be sold.

The treasurer shall not be responsible for any loss of public moneys resulting from a deposit thereof made in accordance with the provisions of this section. The treasurer shall be responsible for the safe-keeping of all securities deposited by banks. The transfer of money for deposits shall be at the expense of the depositary.

Funds received by donation, bequest or legacy for a specific purpose and held in trust for the benefit of the city and county may, with the approval of the controller, be invested by the officer, board or commission charged with control and administration of such trust or funds in securities legal for savings banks.

All interest on moneys so deposited shall accrue to the benefit of the city and county, except that interest derived from the deposit of any

bond, utility, pension, trust or other fund created for a specific purpose shall accrue to such fund. Public money, other than that of the city and county, coming into the hands of the treasurer shall be kept as provided by law. [*The deposit of public moneys are regulated by the State Legislature.* See Sect. 16½, Art. XI, of the Constitution.]

Custody of Moneys and Securities

SECTION 83. The supervisors shall by ordinance provide for the safe custody of all money and property in the possession or under the control of the treasurer. Pending the adoption of such ordinance, monevs and securities in possession of the treasurer shall be deposited in a joint custody safe with two combination locks, both of which must be unlocked to open the safe. The combination of one lock shall be known only to the treasurer and one deputy in his office selected by him, and the combination of the other shall be known only to the controller and such assistant in his office as shall be selected by him. The joint custody safe shall be opened only in the presence of the treasurer and either the controller or the assistant in his office having knowledge of the combination, or in the presence of the controller and either the treasurer or the assistant in his office having knowledge of the combination, and either the controller or the said assistant shall attend, at the request of the treasurer, to open the joint custody safe.

A complete record of moneys and securities on deposit in the joint custody safe shall be kept in a joint custody account and the record of any withdrawals shall be verified by the initials of the controller or his said assistant and the treasurer or his said assistant. Money required for current daily payments to be made from the treasury may be withdrawn from the joint custody safe and deposited in another safe, and the balance thereof shall be verified daily at the close of business hours by the treasurer and the controller.

Clearing House Representative

SECTION 84. The board of supervisors, by ordinance, upon the recommendation of the mayor, the treasurer and the controller, may designate any bank qualified to be a depositary under this charter to be the clearing house representative of the city and county, and the city and county may pay a reasonable fee for the service thereof. The necessary procedure shall be provided by ordinance.

Expenditures and Payment of Claims

SECTION 85. No money shall be drawn from the treasury of the city and county, nor shall any obligation for the expenditure of any money be incurred except in pursuance of appropriations or transfers made as in this charter provided.

All salaries and wages shall be payable semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or con-

tinuous personal service other than in the manner provided by this charter.

All warrants shall be drawn by the controller, in payment of claims, prepared and signed by the responsible official, for services, supplies and other obligations against the city and county, supported by proper invoices, bills and other necessary data.

The controller shall audit such claims. If he finds the same to be correct and proper in all particulars, and clearly within the purposes for which the appropriation item to which it is charged was made, and that there is an adequate balance in such appropriation item to meet the payment, he shall draw and approve the warrant therefor.

If all or any portion of the claim is not correct, or if all proceedings required incidental to such payment have not been followed, the controller may approve such part of such claim as he shall find correct and draw the warrant therefor, or he may return the claim to the department concerned with his disapproval.

Prior to his drawing any warrant therefor, the controller may, in addition to any other inspection required by any other official, make such investigation and inspection as he deems necessary as to the quality, quantity and condition of services, material, supplies or equipment received by any officer or department for which payment is to be made by such warrant. If, in his opinion, any claim is not legal, he shall withhold approval of the same and immediately return such claim, together with a statement of his action thereon and reason therefor, to the responsible official, or transmit the same to the mayor for instructions. No warrant shall be drawn in payment of a claim against a fund in which there is an insufficient unencumbered balance for the payment thereof. Such claims, if legal, shall be registered by the controller in the order of receipt by him, and shall be paid in such order as moneys to cover the same become available in the proper fund.

Limitation on Incurrence of Liabilities

SECTION 86. No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the board of supervisors unless the controller first certify to such board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditure will be available in the treasury in sufficient amount to meet the same as it becomes due.

No obligation involving the expenditure of money shall be incurred or authorized by any officer, employee, board or commission of the city and county unless the controller first certify that there is a valid appropriation from which the expenditure may be made, and that sufficient unencumbered funds are available in the treasury to the credit of such appropriation to pay the amount of such expenditure when it becomes due and payable.

Every officer who shall approve, allow or pay any demand on the

treasury not authorized by law, ordinance or this charter, shall be liable to the city and county individually and on his official bond for the amount of the demand so illegally approved, allowed or paid.

Each such certification shall be immediately recorded by the controller. Each sum so recorded shall be an encumbrance for the purpose certified until such obligation is fulfilled, cancelled or discharged, or until the ordinance or resolution is repealed by the board of supervisors.

All obligations incurred, all ordinances passed, and resolutions and orders adopted, contrary to the provisions of this section, shall be void and any claim or demand against the city and county based thereon shall be invalid. *Refer to Digest.*

Limitation on Claims for Damages

SECTION 87. All claims for damages against the city and county must be presented to the controller within sixty days after the occurrence from which it is claimed the damages have arisen. Such claims must be verified by the oath of the claimant and must contain the name and address of the claimant, the date and place of the occurrence or injury for which damages are claimed, the nature and amount of said injuries or damages and the items making up said amount; otherwise there shall be no recovery on any such claim or by reason of the said occurrence for which damages are claimed. *Ratified by the Legislature,* January 26, 1935. *Refer to Digest.*

PURCHASING

Purchase and Sale of Material, Supplies and Equipment

SECTION 88. The purchaser of supplies shall purchase all materials, supplies and equipment of every kind and nature, and enter into agreements for all contractual services required by the several departments and offices of the city and county, except as in this section otherwise provided. Purchases of books, magazines and periodicals for the library departments, works of art for museums and other articles or things of unusual character as to the purchasing thereof, may, on the recommendation of a department head and the approval of the purchaser, be purchased directly by said department head.

Purchases for construction operations, or for any operations conducted outside the boundaries of the city and county may, on the recommendation of the department head in charge thereof and the approval of the purchaser of supplies, be made by the department head. All such purchases made by officials of departments other than the purchasing department shall be made in accordance with regulations established by the purchaser of supplies. The purchaser of supplies shall have authority to exchange used materials, supplies, and equipment to the advantage of the city and county, advertise for bids, and to sell personal property belonging to the city and county on the recommendation of a department head that such articles are unfit for use.

All purchases shall be by written purchase order or written contract.

All purchases in excess of one thousand dollars ($1,000) shall be by written contract, provided, however, that on the recommendation of the department head, in case of an emergency actually existing, the purchaser of supplies, with the approval of the chief administrative officer, may make such purchases in the open market on the basis of informal bids. At least three bids or quotations shall be secured on open market purchases and a permanent record of all such quotations shall be kept. All contracts and purchase orders in excess of two thousand dollars ($2,000) for material, supplies or equipment shall require the signature of the chief administrative officer in addition to the signature of the purchaser of supplies. The purchaser of supplies shall not enter into any contract or issue any purchase order unless the controller shall certify thereon that sufficient unencumbered balances are available in the proper fund to meet the payments under such purchase order or contract as these become due.

The purchaser of supplies shall establish specifications and tests to cover all recurring purchases of material, supplies and equipment. He shall, as far as is practicable, standardize materials, supplies and equipment according to the use to which they are to be put, when two or more types, brands or kinds are specified or requested by individual departments.

Purchases of equipment shall be made in accordance with specifications furnished by the department requiring such equipment in case the use of such equipment is peculiar to such department. For patented or proprietary articles sold by brand name, the purchaser may require each department requisitioning same by such brand name, to furnish specifications of the article requisitioned and may advertise for bids on the basis of such specifications, under conditions permitting manufacturers of or dealers in other articles made and sold for the same purpose to bid on such specifications or on the specifications of their own product. If the purchaser of supplies recommends the acceptance of the lowest or best bid, stating his reasons in writing therefor, and if the department head concerned recommends the acceptance of any other bid on such proprietary articles, stating his reasons in writing therefor, the award shall be determined by the controller.

The purchaser of supplies shall require departments to make adequate inspection of all purchases, and shall make such other inspection as he deems necessary. He shall direct the rejection of all articles which may be below standards, specifications or samples furnished. He shall not approve any bill or voucher for articles not in conformity with specifications, or which are at variance with any contract.

He shall have charge of central storerooms and warehouses of the city and county. He shall also have charge of a central garage and shop for the repair of city and county equipment. All garages and shops heretofore maintained by departments for the construction, maintenance, and repair of departmental supplies and equipment, and the personnel assigned thereto, excepting the shop and personnel for fire alarm, police telegraph and traffic signal manufacture and repair operated by the department of electricity, are hereby transferred to said central garage and shop.

He shall, under the supervision of the controller, maintain an inven-

tory of all material, supplies and equipment purchased for and in use in all departments and offices of the city and county. He shall be responsible for the periodic check of such property, and in case of loss or damage deemed by him to be due to negligence, he shall report thereon to the mayor, the chief administrative officer and the controller. He shall have authority to require the transfer of surplus property in any department to stores or to other departments.

Purchasing Procedure

SECTION 89. All purchase orders and contracts shall be based on written requisitions, or, for materials or supplies in common use in the various departments, on the purchaser's records of average use by all departments, when approved by the chief administrative officer. The purchaser of supplies shall approve all bills or vouchers for materials, supplies, equipment, and contractual services before the controller shall draw and approve warrants therefor. All contracts for the purchase of materials, supplies and equipment shall be made after inviting sealed bids by publication. All sealed bids received shall be kept on file. When an award of contract is made, notice that the same has been made shall be given by one publication, and any interested person may examine the bids and records at the purchaser's office.

Purchaser's Revolving Fund

SECTION 90. Appropriations for material, supplies, and equipment shall be segregated in each annual appropriation ordinance for each department or office. Any part of each such fund or appropriation may, on the recommendation of the purchaser of supplies and the approval of the controller, be transferred to or made available in the purchaser's revolving fund. Warrants shall be drawn against such fund by the controller on demand of the purchaser for the payment of bills on which discount for prompt payment may be secured, or for advantageous cash purchasing, under favorable or emergency market conditions, of materials or supplies for future departmental requisition and use. Discounts obtained by the use of the purchaser's revolving fund may be accumulated therein and the supervisors may make annual appropriations to such fund until a sufficient sum, as determined by the controller, is accumulated to meet the average purchasing and discount payment requirements of the city and county.

Purchase, Lease and Sale of Real Property and Improvements

SECTION 91. The director of property shall be the head of the department of property. He shall have charge of the purchase of real property and improvements required for all city and county purposes, and the sale and lease of real property and improvements thereon owned by the city and county, except as otherwise provided by this charter. In the acquisition of property required for street opening, widening or other public improvements, the director of property shall make preliminary

appraisals of the value of the property sought to be condemned or otherwise acquired, and report thereon to the responsible officer. It shall be his duty, in addition, to assist in such proceedings on the request of the responsible officer.

He shall have charge of the management of the exposition auditorium.

Each department authorized by the approval of bond issues or by annual or supplemental appropriation ordinances to purchase or lease property or improvements needed for the purposes of such department shall make such purchases or leases through the director of property. He shall make a preliminary valuation of the property to be acquired or leased and report the same to the department requiring such property. For such purposes he may employ independent appraisers. He shall conduct negotiations with the owner or owners thereof, at the conclusion of which he shall report the terms on which such sale or lease may be concluded, together with his recommendations thereon. The head of the department concerned may report to the board of supervisors and recommend acceptance or that proceedings in eminent domain be instituted for the acquisition of such property.

Sale of Property

SECTION 92. Any real property owned by the city and county, excepting lands for parks and squares, may be sold on the recommendation of the officer, board or commission in charge of the department responsible for the administration of such property. When the board of supervisors, by ordinance, may authorize such sale and determine that the public interest or necessity demands, or will not be inconvenienced by, such sale, the director of property shall make a preliminary appraisal of the value of such property. The director of property shall advertise by publication the time and place of such proposed sale. He shall forthwith report to the department head concerned and to the supervisors the amount of any and all tenders received by him. The supervisors may authorize the acceptance of the highest and best tender, or they may, by ordinance, direct that such property be sold at public auction, date of which shall be fixed in the ordinance. No sale other than a sale at public auction shall be authorized by the supervisors unless the sum offered shall be at least ninety per cent of the preliminary appraisal of such property hereinbefore referred to.

The proceeds of the sale of any property under the control of a department shall be applied by the supervisors to the purchase of additional land for the use of such department if required thereby. Otherwise such proceeds shall be applied to the purchase of additional real property for any city and county purpose, provided, however, that the proceeds of the sale of any property acquired for the use of any utility shall revert to the funds of said utility.

The director of property may, in lieu of sale, arrange for the trading of any real property proposed to be sold for other property required by the department in charge thereof, on the recommendation of the officer, board or commission in charge of such property and the authorization, by ordinance, of the board of supervisors.

Lease of City Property

SECTION 93. When the head of any department in charge of real property shall report to the board of supervisors that certain land is not required for the purposes of the department, the board of supervisors, by ordinance, may authorize the lease of such property. The director of property shall arrange for such lease for a period not to exceed twenty years, to the highest responsible bidder at the highest monthly rent. The director of property shall collect rents due under such lease.

The public utilities commission may provide, by resolution, that agricultural or other lands used and useful for water department purposes and at the same time available for leasing or rental for agricultural purposes shall be subject to lease and administration by the operating forces of the water department; provided, however, that no such lease shall be made to any other public utility without the approval of the board of supervisors by two-thirds vote thereof.

Records of Real Property

SECTION 94. The director of property shall maintain complete records and maps of all real property owned by the city, which shall show the purchase price, if known, and the department in charge of each parcel, with reference to deeds or grants establishing the city's title.

He shall annually report to the mayor, the controller, the chief administrative officer, and the supervisors the estimated value of each parcel and improvement. He shall make recommendations to the mayor and chief administrative officer relative to the advantageous use, disposition, or sale of real property not in use.

CONTRACTS

Public Works and Purchasing Contracts

SECTION 95. The construction, reconstruction or repair of public buildings, streets, utilities or other public works or improvements, and the purchasing of supplies, materials and equipment, when the expenditure involved in each case shall exceed the sum of one thousand dollars ($1,000), shall be done by contract, except as otherwise provided by this charter. It shall constitute official misconduct to split or divide any public work or improvement or purchase into two or more units for the purpose of evading the contract provisions of this section. In an emergency, provided an actual emergency be declared by the board of supervisors to exist, and when authorized by resolution of said board, any public work or improvement may be executed in the most expeditious manner.

Any public work or improvement estimated to cost less than one thousand dollars ($1,000) may be performed under contract or written order or by the employment of the necessary labor and purchase of the necessary materials and supplies directly by the city and county. Any public work or improvement executed by the city, other than routine repair work, shall be authorized by the chief administrative officer or

by the heads of departments not under the chief administrative officer, only after detailed estimates have been prepared and submitted by the head of the department concerned. There shall be separate accounting for each work or improvement so executed, which accounting shall include all direct, indirect and supervisory elements of cost chargeable to such work or improvement, and each cost accounting shall be reported to the chief administrative officer, or to the mayor when such work shall have been performed by departments not under the chief administrative officer. All such accounts shall be reported to the controller. Any public work or improvement costing less than one thousand dollars ($1,000) and not performed by the use of city and county labor, materials, and supplies shall, if not performed under contract, be covered by written order or agreement which shall be based on not less than three bids, notice of which shall be given by three days' posting. Records of such bids shall be kept by the department.

When the expenditure for any public work or improvement shall exceed the sum of one thousand dollars ($1,000), the same shall be done by contract, except as otherwise provided in this charter. The head of the department in charge of or responsible for the work for which a contract is to be let, or the purchaser of supplies in the case of purchases of materials, supplies and equipment, shall let such contract to the lowest reliable and responsible bidder not less than ten days after advertising by publication for two consecutive days for sealed proposals for the work, improvement or purchase contemplated. Each such advertisement shall contain the reservation of the right to reject any and all bids. The officer responsible for the awarding of any such contract shall require from all bidders information concerning their experience and financial qualifications, as provided by general law relative to such investigations authorized by departments of public works.

The purchaser of supplies with the approval of the chief administrative officer, or the department head concerned with the approval of the board or commission to which he is responsible, may reject any and all bids and readvertise for bids.

The department head or the purchaser of supplies, as the case may be, shall have power to sign such contract for the estimated expenditures thereunder not in excess of two thousand dollars ($2,000). Any contract involving the expenditure of over two thousand dollars ($2,000), if for the purchase of materials, supplies or equipment, shall require the joint approval of the purchaser of supplies and the chief administrative officer. If such contract is for any public work or improvement, it shall require the joint approval of the department head and the chief administrative officer relative to departments under his jurisdiction, or the signature of the department head and the approval by resolution of the board or commission concerned for departments not under the chief administrative officer.

The board of supervisors, by ordinance, shall establish procedure whereby appropriate city and county departments may file sealed bids for the execution of any work to be performed under contract. If such bid is the lowest, the contract shall be awarded to the department. Accurate unit costs shall be kept of all direct and indirect

charges incurred by the department under any such contract, which unit costs shall be reported to and audited by the controller monthly and on the completion of the work.

In any case where the lowest gross price or unit cost bid is not accepted, and a contract is entered into with another bidder, written report shall be made to the chief administrative officer, the mayor and the controller by the officer authorized to execute the contract, with the reasons for failure to accept such lowest bid.

Progressive Payments

SECTION 96. Any contract may provide for progressive payments, if the advertisement for sealed proposals shall so specify. No progressive payments under any contract shall be made which, with prior payments, shall at any time exceed in amount ninety per cent of the value of the work and labor and materials furnished, and no contract shall authorize or permit the payment of more than ninety per cent of the total contract price before the completion of the work required by such contract and the acceptance thereof by the head of the department concerned.

Penalties and Extras

SECTION 97. If so specified in the published notice soliciting sealed bids for any public work or improvement, any contract therefor may be let for a gross price or on a basis of cost per unit of work to be performed, and may also provide for liquidated damages to the city and county for every day during which the contract is uncompleted beyond such specified date. In awarding any contract, the department head concerned is authorized to compare bids on the basis of time of completion. When any award of contract has been made in consideration, in whole or in part, of the relative time estimates of bidders for the completion of the work, the time within which the contractor shall start work shall be fixed and the performance within such time limits shall be covered by the bond required of the contractor, and no extension may be granted on such contract beyond the date specified for completion, unless the liquidated damages for each day the work is uncompleted beyond the specified date shall be collected; provided, however, that this shall not apply to unavoidable delays due to act of God.

If it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications, or provide for extras in such contract which shall increase the contract cost, such alterations, modifications or extras shall be made only on the written recommendation of the department head responsible for the supervision of the contract, together with the approval of the chief administrative officer or the board or commission, as the case may be, and also the approval of the controller. No such alteration, modification or extra shall be valid, unless the increased price to be paid under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the department head concerned, and approved as hereinbefore provided. In the performance of any contract awarded

on the unit and the unit-cost basis, if the department head concerned ascertains that the amount of work done or to be done shall exceed the estimated amount of the contract by ten per cent, or more, the excess shall be provided for as prescribed by section 80 relative to supplemental appropriations.

Contractors' Working Conditions

SECTION 98. Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under sub-contract, sub-partnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide: (1) That in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day; (2) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; (3) that any person performing labor in the execution of the contract shall be a citizen of the United States; (4) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or "improvement," as used in this section, shall include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a sub-contract subject to the provisions of this section.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement, or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed ten per cent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any sub-contractor or materialman for the purpose of supplying the same to any contractor bidding on or performing any contract for any public work or improvement, said sub-contractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufac-

tured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the board of supervisors by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding ten per cent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco. *Ratified by the Legislature,* May 17, 1935. *Refer to Digest.*

Contract Procedure by Ordinance

SECTION 99. The board of supervisors shall, by ordinance, establish the necessary procedure to be followed in the advertising for bids, the award of contracts, the supervision of contract work, and the acceptance thereof on completion; also for the security to be given on the filing of bids to guarantee the execution of the contract if awarded, and for the security to be given on the award of contract for the faithful performance thereof and to guarantee the payment of wages for services engaged and of bills contracted for material, supplies and equipment used in the performance of the contract.

Collusion

SECTION 100. If any party or parties to whom a contract has been awarded has been guilty of collusion with any officer or representative of the city and county, or any other party or parties, in the submission of any bid or in preventing of any other being made, or in knowingly receiving preferential treatment by any officer or an employee of the city and county, then any contract so awarded, if not completed, may be declared null and void by the board of supervisors on the recommendation of the purchasing agent or the department head concerned, as the case may be, and the purchaser of supplies or the department head concerned shall thereupon re-advertise for bids for said work for the uncompleted portion thereof. If the work under such contract shall have been completed, the matter shall be referred to the city attorney for such action as may be necessary. Any party or parties guilty of such collusion shall not be permitted to participate in or to bid on any future public work, improvement or purchase to be made by the city and county.

BOND ISSUE PROCEDURE

General Laws Applicable

SECTION 101. The general laws of the State of California authorizing the incurring and establishing the procedure for the creation of bonded indebtedness and authorizing and establishing the procedure for the issuance of bonds to refund indebtedness of municipalities in force at the time any bonded indebtedness is created or refunded by the city

and county shall, except as otherwise provided in this charter, be applicable to the creation of bonded indebtedness and the issuance of refunding bonds by the city and county. *Refer to Digest.*

Interest on Bonds During Construction

SECTION 102. In any case where bonds have been authorized for the acquisition, construction or completion of a public utility or of extensions thereto, interest which may become due on said bonds during the actual period of construction of said utility, or of extensions to an existing utility, as the case may be, and during the period of six months immediately following the completion of the same may be paid out of the proceeds of sale of the bonds authorized and sold for such purpose, if such method of payment of interest be expressly provided for in the proceedings authorizing such bond issue.

Bonds for Street and Other Public Work—Revolving Fund

SECTION 103. A municipal indebtedness may be authorized to be incurred by the voters, in the manner now or hereafter provided by the general laws of the State of California, for the purpose of financing public improvements the cost of which is to be assessed against private property benefited thereby, and bonds may be authorized by the voters to be issued therefor, the proceeds of which shall be used as a "Revolving Fund" to be applied to the payment of incidental and other expenses, the progressive payments on the work or works or to pay the principal or interest of bonds, securities or other evidences of debt issued against said special assessments or to purchase any bonds or coupons issued against such special assessments.

Bonded Debt Limit

SECTION 104. No bonded indebtedness shall be incurred by the city and county which together with the amount of bonded indebtedness outstanding shall exceed twelve per cent of the assessed value of all real and personal property in the city and county subject to taxation for city and county purposes; provided, however, that bonded indebtedness heretofore or hereafter created for water supply, storage or distribution purposes, bonded indebtedness created pursuant to section 103 hereof and bonded indebtedness heretofore created in aid of the Panama-Pacific International Exposition shall be exclusive of the limitation on the amount of bonded indebtedness of the city and county contained in this section.

Bond Election for the Acquisition of Public Utilities to Be Called by the Board of Supervisors Upon Petition of Electors

SECTION 105. In addition to the method prescribed by the other provisions of this charter, the proceedings for the authorization and issuance of bonds for the acquisition, construction or completion of any

public utility or utilities may also be initiated by electors in the manner following: Whenever a petition, signed by qualified electors of the city and county equal in number to fifteen per cent of the electors who voted for all candidates for the office of mayor at the last general election at which a mayor of the city and county was elected, requesting the board of supervisors to submit to the electors of the city and county a proposition or propositions for incurring bonded indebtedness for the acquisition, construction or completion of any public utility or utilities shall be filed in the office in which initiative petitions are required by this charter to be filed, the board of supervisors shall, as soon thereafter as in its judgment shall be practicable, proceed to call an election and submit to the electors of the city and county the proposition or propositions of incurring bonded indebtedness of the city and county for the purpose or purposes set forth in said petition. Neither errors nor informalities in said petition or in the signatures thereto nor the failure of the percentage of electors herein specified to sign the same, nor any delay in submitting said proposition or propositions to the electors shall invalidate any bonds which may be issued and sold pursuant to the provisions hereof. The provisions of this charter relating to the filing, verification and certification of initiative petitions shall be applicable to the petition herein referred to. Such election shall be called and held in same manner as other bond elections of the city and county, and all proceedings for the issuance of bonds for the acquisition, construction or completion of such public utility or utilities, excepting only as otherwise provided in this section, shall be taken in accordance with the provisions hereinbefore set forth in this charter.

PUBLIC WORKS AND IMPROVEMENTS

Director of Public Works

SECTION 106. The department of public works shall be in charge of a director of public works, who shall be paid an annual salary of eight thousand dollars ($8,000). He shall be appointed by and hold office at the pleasure of the chief administrative officer. The director of public works shall appoint a city engineer, who shall hold office at the pleasure of said director. He shall possess the same power in the city and county in making surveys, plats and certificates as is or may from time to time be given by law to city engineers and to county surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are or may be given by law to those of city engineers and county surveyors.

The director of public works shall have and succeed to the powers and duties of the board of public works from and after twelve o'clock noon on the 8th day of January, 1932, except as otherwise provided in this charter, at which time the terms of members of the board of public works shall terminate, and such board as theretofore existing shall be abolished.

All examinations, plans and estimates required by the supervisors

in connection with any public improvements, exclusive of those to be made by the public utilities commission, shall be made by the director of public works, and he shall, when requested to do so, furnish information and data for the use of the supervisors.

General Law and Ordinance Procedure for Public Works

SECTION 107. Where a procedure for the exercising of any rights and powers belonging to a city, or a county, or a city and county, relative to the establishment or change of grades and the lay-out, extension, opening, widening, changing, closing, vacating, paving, repaving or otherwise improving streets and highways and public places, and constructing sewers, drains, conduits and culverts, subways, tunnels, viaducts and bridges, or other public improvements incidental or appurtenant thereto, to planting trees, constructing parking and removing weeds or the executing of any other public work or improvement hereby or hereafter placed under the jurisdiction of the department of public works, and the payment of damages, or levying of special assessment to defray the whole or part of the cost of such works or improvements is provided by statute of the State of California, such procedure shall control and be followed, unless a different procedure is provided in or under authority of this charter or by ordinance continued by this charter or any such ordinance hereafter amended or by ordinance passed by the board of supervisors, and the board of supervisors is hereby empowered to provide by ordinance for any such purpose.

The department of public works shall semi-annually notify the tax collector of the amount of each assessment that becomes delinquent and the lot and block number against which such assessment is levied, and it shall be the duty of the tax collector to note such delinquency on each annual tax bill.

Repair of Accepted Streets

SECTION 108. When any roadway of a street or portion thereof for not less than one continuous block has been paved in accordance with the specifications of the department of public works, and is in good condition, and sewer, gas and water pipes have been laid therein, the same shall be accepted by the supervisors by ordinance on the written certificate of the city engineer, and thereafter such portion of the roadway of said street shall be kept in repair and improved by the city and county. It shall be the duty of the owner of any property fronting on a public street to keep the sidewalk in front thereof in good repair and condition and the board of supervisors is hereby empowered to provide by ordinance for the repair of such sidewalks in all cases where the owner fails and neglects to repair the same.

Nothing herein contained shall relieve any railway company from making repairs to the roadway of any street in conformity with the terms of its franchise or as provided by law. *Ratified by the Legislature,* January 26, 1935.

Specified Types of Street Construction

SECTION 109. No patented pavement shall be ordered during the existence of the patent therefor, until the owner of such patent shall have transferred to the city and county all right to use of the same therein, with the privilege to any person to manufacture and lay same upon the streets under any contract that may be awarded to or entered into by him with the city and county.

Financing Special Assessment Projects

SECTION 110. The board of supervisors shall establish a public improvement revolving fund to which the board may make appropriations from tax levies thereto for the purpose of such fund, and may establish procedure for the use of the credit of the city and county for the establishment of said revolving fund, to be used solely for the purpose of financing all or part of the initial cost of public improvements to be paid in whole or in part from the proceeds of special assessments levied against the property deemed to be benefited. A bond issue or issues may be proposed, as authorized elsewhere in this charter, the proceeds of which shall be paid into said revolving fund for the financing of public improvements, provided that said revolving fund shall be reimbursed as prescribed in this section by the levy and collection of special assessments and that the interest and redemption or sinking fund charges on any bonds authorized for such purpose shall be paid from the proceeds of such levy.

On the recommendation of the director of public works and the chief administrative officer, sufficient bonds may be sold at one time to provide funds for the estimated cost of financing special assessment projects for a period of not to exceed one year. When any public improvement is to be financed in whole or in part from the proceeds of special assessments levied against the land deemed to be benefited, the director of public works, subject to the approval of the chief administrative officer, shall report to the controller the estimated cost of such improvement, the amount thereof to be levied by special assessment and the estimated amount of the appropriation to be made from the public improvement revolving fund to meet the initial cost of the project, including progressive payments and other direct or indirect costs chargeable to such project, and shall recommend the appropriation of the necessary sum from such revolving fund.

The supervisors, by ordinance, may provide for the amount to be added to the contract price and other costs of the work, as interest for the use of the revolving fund moneys in financing the cost of the improvement. Interest at the rate of not more than seven per cent may be charged on the unpaid balances of special assessments in cases where the owners of property against which such assessments are levied elect to pay such assessments in installments.

The amount of all special assessments levied for the payment of work financed out of the public improvement revolving fund, together with all interest accruing thereon, shall be credited as collected to such revolving fund. The board of supervisors may prescribe the duties of any

city and county officer or department in maintaining accounts of and collecting assessments for each such improvement.

Limitation on Special Assessments

SECTION 111. Special assessments shall not exceed fifty per cent of the assessed value of the land on which the special assessment is levied, except that when such assessments are authorized to be paid in installments over a period not to exceed ten years, no annual installment payment shall exceed twenty-five per cent of the assessed value of the land on which the special assessment is levied.

Sewer, Water and Other Connections

SECTION 112. The director of public works shall have authority, in the manner provided by ordinance by the board of supervisors, (1) to order the laying of sewer, water, gas and other mains, conduits or connections, whenever, in view of contemplated street improvements or as a sanitary regulation, such construction is recommended by the city engineer, and (2) to order that excavations, fences, embankments or grades on private property in a condition deemed by him as endangering the persons or property of those using the abutting streets, shall be put in such condition as to insure the safety of the public.

Liability for Damages by Reason of Defective Sidewalks, etc.

SECTION 113. If any portion of any sidewalk or street in the city and county which has been accepted as provided by law shall be in such defective condition as to endanger persons or property and through the official negligence of the director of public works, such defect remains unremedied, unrepaired or unbarricaded, and in consequence thereof damage or loss to person or property is sustained or suffered, the said director shall be liable to the party injured for the damage sustained; provided that a notice in writing directing attention to the existence of such defect, and specifying the particular street and block thereof whereon or wherein such defect exists shall have been served upon such director at least five days before such damage shall have been sustained; and provided further, that there are at such times funds available to the said director for repairing or remedying such defects or barricading the same.

Spur Tracks

SECTION 114. The board of supervisors shall refer all requests for spur track permits to the director of public works who shall grant such permits in all cases where the spur track is to be located within a heavy industrial zone, as classified by the city planning commission, provided that such spur track shall be so constructed and operated as not to establish an unreasonable interference with the public use of the streets affected. The board of supervisors shall refer all other requests for spur track permits to the director of public works for report thereon, which shall be submitted by him within ten days after such reference,

and shall not grant permission to lay any spur track until a report thereon shall have been received from said director, to the effect that such construction and operation will not create an unreasonable interference with the public use of the streets affected.

CITY PLANNING

City Planning Commission

SECTION 115. The city planning commission shall consist of five members who shall be appointed by the mayor. The terms of members of the commission shall be four years from and after the date of their respective appointments, provided that the mayor, after the 8th day of January, 1932, shall reorganize the terms of the commission so that one such term shall expire at 12 o'clock noon on the 15th day of January in the years 1933, 1934 and 1935, respectively, and the remaining two terms shall expire at 12 o'clock noon on the 15th day of January, 1936, and upon the expiration of the term of each of said commissioners, the mayor shall appoint his successor to serve for the full term of four years. The compensation of members of said commission shall be fifteen dollars ($15) for each meeting of the commission actually attended by said members, provided that the aggregate amount paid all of the members shall not exceed five thousand dollars ($5,000) per year.

Powers and Duties of Commission

SECTION 116. The commission may appoint a city planning engineer who shall hold office at its pleasure and who shall be a person of expert and technical training, with at least five years' experience in engineering. The commission may also contract with architects, city planners, engineers or consultants for such services as it may require.

The commission shall succeed in office the city planning commission now existing, and shall have all the powers and duties thereof, except as in this charter otherwise provided, and all matters pending before the existing commission shall have the same status before the commission herein continued. All zoning classifications and building setback lines in effect at the time this charter becomes effective shall remain in force and effect unless and until changed as provided in section 117.

It shall be the duty of the commission to make, maintain and adopt, including necessary changes therein, a master plan of the physical development of the city and county, which plan, including maps, plats, charts and descriptive matter, shall make recommendations for the development of all areas within the city and county and for three miles outside of the boundaries thereof, including, among other things, the general location, character and extent of streets, viaducts, subways, bridges, boulevards, parkways, playgrounds, parks, squares, aviation fields and other public ways, grants and open spaces, the general location of public buildings and other public property and the removal, relocation, widening, narrowing, vacating, abandonment or extension of any of the foregoing ways, grants, open spaces or buildings. In the preparation of such plans, the commission shall consult and cooperate with all other depart-

ments of the city and county which, by this charter, are vested with responsibility for or control over any of the matters hereinbefore enumerated, and shall make such additional studies as it may deem necessary. The commission shall also act in an advisory capacity to the supervisors and other departments of the city and county in all matters affecting the general location and extent of public improvements, ways and structures. All departments and officials of the city and county shall, upon request, furnish to the commission such information as it may require for its work and the commission shall, whenever possible, furnish to all departments and officials such information as said departments and officials may require.

Zoning and Set-Back Lines

SECTION 117. The city planning commission, from time to time, shall consider and hold hearings on proposed changes in the classification of the use to which property in the city and county may be put, and the establishment or changing of building set-back lines, in either case, on its own motion or on the application of an interested property owner.

The board of supervisors, by ordinance, shall establish procedure for action on such matters, which ordinance must provide, among other things, that the commission shall give notice of time, place and date of hearing by posting throughout the area and by publication not less than twenty days prior thereto; that the commission shall notify, in writing, not less than ten days prior to said hearing, applicants for proposed changes, and all persons whose names and addresses are shown on the assessment roll as owners of property within three hundred feet of all exterior boundaries of the area affected by the proposed changes and the time and the place of hearing, which names, addresses and other information shall be furnished by the applicant in the form required by the commission; that the commission, after hearing shall, by resolution, approve or disapprove the proposed change which, if approved, shall not become effective for thirty days; that appeal may be taken from the ruling of the commission by filing written protest with the board of supervisors, and if such protest is subscribed by the owners of twenty per cent of the property affected, the supervisors shall fix a time and a place for hearing such objections which shall be not less than ten nor more than thirty days after such filing, and must decide thereon within ten days of the start of such hearing; that the supervisors, by not less than two-thirds vote, may disapprove the action of the commission, provided, however, that any change in zoning, classification or building set-back lines made by the commission on its own motion shall require approval of the supervisors by a two-thirds vote; that in case of disapproval by the commission or by the supervisors on appeal of a proposed change, such proposed change may not be resubmitted to or reconsidered by the commission for at least one year.

No ordinance shall be considered by the supervisors, the purpose or intent of which is the classification, regulation or control of the height, area, bulk, location or use of any building or buildings, or premise or premises, and classifying any property into any district or zone for such purposes, or establishing a set-back line or lines along any street or

portion thereof in the city and county without being first submitted to the city planning commission for report and recommendation. If the commission disapprove any such ordinance, the supervisors may adopt the same only by an affirmative vote of at least two-thirds of its entire membership. The failure of the commission to act within sixty days from and after the date of official submission of any proposed zoning, classification or set-back line by the board of supervisors shall be deemed to be approval of such classification or proposed set-back line by the commission. *Refer to Digest.*

Plats and Subdivisions

SECTION 118. All plats or replats of subdivisions of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the city and county limits, shall be submitted by the department of public works to the city planning commission, which shall report its recommendations thereon in writing to the department of public works.

PUBLIC UTILITIES AND FRANCHISES

Public Utility Policy

SECTION 119. It is the declared purpose and intention of the people of the city and county, when public interest and necessity demand, that public utilities shall be gradually acquired and ultimately owned by the city and county. Whenever the board of supervisors, as provided in sections 101 to 104, inclusive, of this charter, shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities by the city and county, or whenever the electors shall petition the supervisors, as provided in sections 105, 179 and 180 of this charter, for the acquisition of any public utility or utilities, the supervisors must procure a report from the public utilities commission thereon.

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Public Utilities Commission

SECTION 120. A public utilities commission is hereby created, which shall consist of five members, who shall be appointed by the mayor and who shall be subject to recall and to suspension and removal in the same manner as elective officers. The term of each commissioner shall be four years, provided that the five commissioners first appointed by the mayor after twelve o'clock noon, on the 8th day of January, 1932, shall, by lot, classify their terms so that the term of one commissioner shall expire at twelve o'clock noon on the 15th day of January in each of the years 1933, 1934, and 1935, respectively, and that the terms of two other commissioners shall expire at twelve o'clock noon on the 15th day of January, 1936, and on the expiration of these and successive terms, the mayor shall appoint their successors for four years. The com-

pensation of each commissioner shall be one hundred dollars ($100) per month.

General Powers and Duties of Commission

SECTION 121. The public utilities commission shall have charge of the construction, management, supervision, maintenance, extension, operation and control of all public utilities and other properties used, owned, acquired, leased or constructed by the city and county, including airports, for the purpose of supplying any public utility service to the city and county and its inhabitants, to territory outside the limits of the city and county, and to the inhabitants thereof.

The commission shall locate and determine the character and type of all construction and additions, betterments and extensions to utilities under its control, and shall determine the policy for such construction or the making of such additions, betterments and extensions from the public funds under its jurisdiction; provided that in each such case it shall secure the recommendation of the manager of utilities, which shall be presented in writing and shall include analyses of cost, service and estimated revenues of all proposed or feasible alternatives in cases where it is deemed by the manager that such alternatives exist.

The commission shall also have power to enter into contract for the furnishing of heat, light and power for municipal purposes, and to supervise the performance and check the monthly bills under such contract.

The commission shall have full power and authority to enter into such arrangements and agreements as it shall deem proper for the joint use with any other person, firm or corporation owning or having jurisdiction over poles, conduits, towers, stations, aqueducts, reservoirs and tracks for the operation of any of the utilities under its jurisdiction. It may make such arrangements as it shall deem proper for the exchange of transfer privileges with any privately owned transportation company or system which shall tend toward the betterment of transportation service.

The commission shall observe all city and county ordinances and the regulations of the department of public works relative to utility openings, structures and poles in streets and other public places, as well as all ordinances and regulations relative to barricades, construction lights, refilling excavations and replacing and maintaining street pavements; and in connection with all such matters the said commission shall be subject to the same inspection rules and pay fees to the proper department in the same manner and at the same rates as any private person or corporation.

The commission shall have charge of all valuation work relative or incidental to purchase proceedings initiated by the city and county for the acquisition of any public utility.

Foreign trade zones, as may be authorized by acts of Congress to be located in the city and county, are hereby declared to be public utilities within the meaning of this charter. A bonded indebtedness for the construction, completion or acquisition of foreign trade zones and the acquisition of necessary lands, buildings and equipment au-

thorized by the electors in accordance with the provisions of this charter shall be exclusive of the bonded indebtedness of the city and county limited by this charter. *Refer to Digest.*

Utility Departments and Bureaus

SECTION 122. The San Francisco municipal railway, the San Francisco water department, the Hetch Hetchy project until the completion thereof when it shall be merged with the water department, the airport, and any other public utility hereafter acquired, shall each be designated as a department under the commission, and, in addition, the commission may create a bureau of engineering and such other bureaus as it may deem necessary for the handling of matters that do not pertain exclusively to any one utility or department. The salaries and general expenses of the commission or bureaus thereof not chargeable to a specific utility shall be apportioned fairly among the utilities under the control of the commission in such manner as the commission may deem appropriate, and such apportionment shall be shown as expenses of such utilities.

Referendum on Any Lease or Sale of Public Utility Property

SECTION 123. The board of supervisors shall have power to lease or sell any public utility or any part thereof; provided that any ordinance or other measure involving the lease or sale of any public utility or part thereof, except as provided in sections 92 and 93 of this charter, or any ordinance granting any new franchise for the operation of any public utility whose franchise has expired, or is about to expire, must be referred and submitted to a vote of the electors of the city and county at the election next ensuing not less than sixty days after the adoption of such ordinance, and shall not go into effect until ratified by a majority of the voters voting thereon.

Manager of Utilities and Other Executive Heads

SECTION 124. The public utilities commission shall appoint a manager of utilities who shall be the chief executive of the commission and shall, subject to the approval of the commission, have the management of all utilities, bureaus and operations under its jurisdiction. He shall be paid an annual salary of twelve thousand dollars ($12,000). He shall hold office at the pleasure of the commission. Subject to the approval of the commission, he shall appoint or remove the heads of departments and bureaus under the commission, exclusive of the civil service provisions of this charter. The manager of utilities and the heads of departments and bureaus shall each possess the necessary executive, administrative and technical qualifications for their respective offices. The manager shall have full power to administer the affairs of the commission as chief executive officer and may, with the consent of the commission, act as the head of any department or bureau created by this charter or by the commission. The salaries of the manager and heads of separate utilities and bureaus shall not ex-

ceed prevailing salaries paid those holding similar positions in comparable private employment.

Employments

SECTION 125. All employees engaged in public utility work at the time this charter shall go into effect, and who have been permanently appointed to their respective positions in conformity with the civil service provisions of this charter, shall become employees of the public utilities commission under the classification held by each such employee at such time. All persons employed in the operating service of any public utility hereafter acquired by the city and county, at the time the same is taken over by the city and county, and who shall have been so employed for at least one year prior to the date of such acquisition, shall be continued in their respective positions and shall be deemed appointed to such positions, under, and entitled to all the benefits of, the civil service provisions of this charter; provided, however, that no person who is not a citizen of the United States shall be so continued in or appointed to his position. All persons residing outside the city and county claiming the benefit of this provision and who are not engaged on such utility work outside of the limits of the city and county shall be allowed a reasonable time, not exceeding one year, to become residents of the city and county.

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor shall be eight hours, to be completed within ten consecutive hours; there shall be one day of rest in each week of seven days; all labor performed in excess of eight hours in any one day, or six days in any one week, shall be paid for at the rate of time and one-half.

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

The public utilities commission shall have jurisdiction over the airport now being conducted by the City and County of San Francisco, as well as over any other airport which said city and county may hereafter acquire, maintain or operate. All employees, exclusive of the manager, of the present San Francisco airport, who are actually employed at the present airport operated and maintained by the City and County of San Francisco on the effective date of this amendment and who have been continuously so employed for one year immediately preceding said date shall be continued in their respective positions as if appointed thereto after examination and certification from a list of eligibles and shall thereafter be governed by and be subject to the civil service provisions of this charter. All said employees so continued in their respective positions shall be eligible for like positions in any other airport hereafter acquired, maintained or operated by the City and County of San Francisco. *Ratified by the Legislature*, January 20, 1941. *Refer to Digest.*

Employments—Public Utilities to Be Acquired by Lease or Other Temporary Arrangement

SECTION 125.1. All persons employed in the operating service of any public utility hereafter acquired by lease or under any other temporary arrangement, under which the city acquires the right to operate said utility, shall be continued in their respective positions and shall be deemed appointed to such positions under, and entitled to all, the benefits of the civil service provisions of this charter for the period of time during which the city shall continue to operate said utility under said lease or other temporary arrangement. Should the city permanently acquire said utility, said persons shall come into the permanent employ of the city and county in their respective positions and shall be deemed permanently appointed thereto under the civil service provisions of the charter and shall be entitled to all the benefits thereof, all subject to the provisions contained in section 125 of the charter; provided, however, that said employees who are taken over into the employ of the city under said lease or other temporary arrangement shall not be subject to the residential qualifications of the charter, during the term of said lease or other temporary arrangement. All employees of any such utility, acquired or operated by the city under any lease or other temporary arrangement, who come into the employ of said utility after the temporary acquisition of same, shall be subject to the civil service provisions of the charter. The civil service rights of any person who comes into the service of the city under any lease or other temporary arrangement for the acquisition and operation of said utility shall cease and terminate upon the expiration of said lease or other temporary arrangement. *Ratified by the Legislature,* January 21, 1941.

Legal Work of Commission

SECTION 126. The city attorney, as the legal adviser of the commission, may, with the approval of the commission, compromise, settle or dismiss any litigation or proceedings which may be pending for or on behalf of or against said commission relative to any matter or property under its jurisdiction. He shall detail to the commission such attorneys as the commission may deem necessary, subject to the approval of the commission as to each such attorney or assistant so assigned. The commission shall have authority, subject to the approval of the mayor, to appoint special counsel for temporary purposes. The compensation of all such attorneys shall be paid by the commission from the revenues of the utilities under its jurisdiction.

Operating Expenses and Reserves

SECTION 127. Receipts from each utility operated by the commission shall be paid into the city and county treasury and maintained in a separate fund for each such utility. Appropriations from such funds shall be made for the following purposes for each such utility in the order named, viz: (a) for the payment of operating expenses, pension charges, and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish

or the board of supervisors may require; (b) for repairs and maintenance; (c) for reconstruction and replacements as hereinafter described; (d) for the payment of interest and sinking funds on the bonds issued for acquisition, construction or extensions; (e) for extensions and improvements, and (f) for a surplus fund. *Ratified by the Legislature,* April 14, 1937.

Depreciation

SECTION 128. For the purpose of computing net income, the commission, on the basis of an appraisal of the estimated life and the then current depreciated value of the several classes of property in each utility, shall determine the amount of reasonable annual depreciation for each utility. During the fiscal year 1937-1938 and at least every five years thereafter, the commission shall make an appraisal or may revise the last preceding appraisal of the value and probable useful life of each of the several classes of property of each utility, and shall, on the basis of said appraisal, redetermine the amount of the reasonable annual depreciation for each utility. *Ratified by the Legislature,* April 14, 1937.

Reconstruction and Replacements

SECTION 128.1. For the purpose of providing funds for reconstruction and replacements due to physical and functional depreciation of each of the utilities under the jurisdiction of the commission, the commission must create and maintain a reconstruction and replacement fund for each such utility, sufficient for the purposes mentioned in this section, and in accordance with an established practice for utilities of similar character, which shall be the basis for the amount necessary to be appropriated annually to provide for said reconstruction and replacements. *Ratified by the Legislature,* April 14, 1937.

Utility Surpluses

SECTION 129. If any accumulation in the surplus fund of any utility shall, in any fiscal year, exceed twenty-five per cent of the total expenditures of such utility for operation, repairs and maintenance for the preceding fiscal year, such excess may be transferred by the board of supervisors to the general fund of the city and county, and such amount shall be deposited by the commission with the treasurer to the credit of such general fund.

Rates

SECTION 130. The commission shall have power to fix, change and adjust rates, charges or fares for the furnishing of service by any utility under its jurisdiction, and to collect by appropriate means all amounts due for said service, and to discontinue service to delinquent consumers and to settle and adjust claims arising out of the operation of any said utilities.

Rates may be fixed at varying scales for different classes of service or consumers. The commission may provide for the rendition of utility service outside the limits of the city and county and the rates to be

charged therefor which may include proportionate compensation for interest during the construction of the utility rendering such service.

Before adopting or revising any schedule of rates or fares, the commission shall publish in the official newspaper of the city and county for five days notice of its intention so to do and shall fix a time for a public hearing or hearings thereon, which shall be not less than ten days after the last publication of said notice, and at which any resident may present his objection to or views on the proposed schedule of rates, fares or charges.

Rates for each utility shall be so fixed that the revenue therefrom shall be sufficient to pay, for at least the succeeding fiscal year, all expenses of every kind and nature incident to the operation and maintenance of said utility, together with the interest and sinking fund for any bonds issued for the acquisition, construction or extension of said utility; provided that, should the commission propose a schedule of rates, charges or fares for said utility which shall not produce such revenue, it may do so with the approval of the board of supervisors, by a two-thirds vote and it shall thereupon be incumbent to provide by tax levy for the additional amount necessary to meet such deficit. All other changes in rates, charges or fares as proposed by the commission shall be submitted by the commission to the board of supervisors for approval, and, except as in this section otherwise provided, it shall require a two-thirds vote of the board of supervisors to reject the rate changes as proposed by the commission, and if so rejected, such proposed changes in schedules of rates, charges or fares shall be returned to the commission for revision. If the supervisors shall fail to act on any such proposed schedule within thirty days, the schedule shall thereupon become effective.

Street Railway 25-Year Operating Permit

Section 131. Any person, firm or corporation, hereinafter called declarant, engaged in operating a street railway in the City and County of San Francisco, may, at any time within twelve months after this section takes effect, make and file with the clerk of the board of supervisors of said city and county a written declaration of surrender to the City and County of San Francisco of all rights, franchises, privileges, permits or resolutions theretofore granted to or held by declarant, or its predecessors in interest, to operate said street railway under said rights, franchises, privileges, permits and resolutions over the streets, avenues and highways in the City and County of San Francisco set forth in said declaration of surrender, and, in consideration and by reason thereof, declarant shall, upon making and filing such declaration of surrender as aforesaid, immediately and automatically by operation of law and without further act on the part of such declarant or by the city and county, have and hold, in place thereof, an operating permit from the city and county giving and granting unto such declarant, its successors or assigns, the right, until such operating permit is revoked in the manner hereinafter set forth, to operate its cars by means of the overhead electric system, by cables running under the ground and moved by stationary engines, or electric motors, or by such other means as

the law may permit, and buses, over the streets and highways in the city and county set forth and enumerated in said declaration of surrender, whether under then existing franchises, or otherwise, and to conduct in the city and county the same railway business theretofore conducted therein by such declarant and, for that purpose, to have the use of the streets, roads, highways, and avenues in the city and county and of the same or like tracks, roadbeds, and other structures and rights of way therein, but upon all the terms and conditions contained in the rights, franchises, privileges, permits and resolutions existing as of February 15, 1929, and in the orders, resolutions and ordinances referred to in such declaration of surrender except that the term or condition as to the period of duration of any right, franchise, privilege, permit or resolution applicable to any operating permit or to any right thereunder, shall be for twenty-five years from the date of the filing of the declaration of surrender by declarant herein referred to. Said permit shall apply only to streets, avenues or highways over which the declarant operated its railway at any time during the year 1930.

The provisions of this section shall not apply to the franchises granted under the following named ordinances of the city and county, namely, Ordinance Number 288 (New Series) approved October 17, 1907, and Ordinance Number 425 (New Series) approved May 12, 1908, commonly known as the Parkside franchises, and Ordinance Number 1196 (New Series) approved June 14, 1910, commonly known as the Gough Street franchise, and Ordinance Number 1460 (New Series) approved January 23, 1911, commonly known as the Parnassus and Ninth Avenue franchise, nor to that portion of the franchise granted under Order Number 1532, approved November 28, 1879, for the operation of a railway on Howard street from Steuart street to Twenty-sixth street, nor to that portion of the franchises granted under Order Number 1890, approved December 27, 1886, for the operation of a railway commencing at the intersection of Post street with Market street, thence along and upon Post street to Leavenworth street.

Such declaration of surrender shall be executed by the declarant and acknowledged and certified in the manner provided by law for the conveyances of real property. Upon the presentation to the clerk of the board of supervisors of such declaration of surrender executed, acknowledged and certified, as aforesaid, it shall be the duty of the clerk of the board of supervisors to file the same and to endorse thereon the fact and date of such filing and to sign such endorsement and to deliver to the declarant a true and correct copy of such declaration of surrender so filed with him, with his certificate attached thereto signed by him and attested by the seal of the city and county to the effect that the same is a true and correct copy of the declaration of surrender so filed with him and stating therein the date of such filing and the name of the declarant executing such declaration and such certificate shall be conclusive evidence of the facts therein recited.

Every permit, given and granted as in this section provided, shall be for the period of twenty-five years, as hereinbefore stated, and shall be subject always to the right of the city and county at any time to acquire and possess the operative railway property of the holder of said permit

upon paying the fair value therefor, hereinafter referred to as compensation.

The compensation to be paid for the property to be acquired, as aforesaid, shall be fixed and determined by agreement by and between the owner of such property and the board of supervisors, authorized by ordinance, or by the owner of such property and any other governmental body with legal and proper authority, and, in case of their failure to agree, the said compensation to be paid as aforesaid shall be fixed in any manner provided by law, whether by condemnation proceedings in the exercise of the power of eminent domain or otherwise. The compensation herein referred to shall not include any claim for going concern value or any other like intangible by any declarant.

Whenever the city and county desires to acquire said railway property, the city and county shall give the holder of said permit written notice, duly authorized by ordinance, of its intention to take over and acquire said properties on a date to be stated in said notice, but in no event less than three months nor more than fifteen months from the date of said notice; and, upon payment or tender of said compensation on the date so noticed, together with compensation for the cost, less accrued depreciation, of any additions or betterments to said property since the date of filing said declaration of surrender, said permit shall be thereby revoked and the holder thereof shall immediately deliver said property to the city and county, and transfer the same by appropriate deeds of grant, bargain and sale, and other assurances of title.

Failure of the city and county to pay or tender said compensation, as aforesaid, shall not prevent said city and county from thereafter, at such time as it shall deem proper, taking proceedings to purchase, acquire and possess said operative properties, as in this section provided.

None of the provisions of this charter concerning or relating to the granting of franchises to operate street railways shall be applicable to the permits given and granted under the provisions of this section or under the provisions of section 132 of this charter or to any right thereunder, it being the purpose and intention of said two sections to provide for permits and rights thereunder which can be used and exercised by the holder thereof, its successors or assigns, without reference to any of the terms or conditions under which franchises may be granted under this charter, until such time as the city and county shall purchase, take over and acquire the operative railway property of such holder.

Street Railway Extensions and Abandonments

SECTION 132. The board of supervisors shall have power to grant by ordinance to any holder of a permit, secured as provided in section 131 of this charter, supplemental permits authorizing such holder, its successors or assigns, to construct and operate in conjunction with its existing lines upon, over or under any of the streets, roads, highways, and avenues of the city and county, an extension or extensions of an existing street railway or bus line in the same manner and subject to the same terms and conditions under which said line from which it is proposed to make the extension, is operated, when such supplemental permit is granted. Every such supplemental permit shall expire concurrently

with the permits granted upon the filing of the declaration of surrender provided in section 131 of this charter, and shall be subject always to the aforesaid right of the city and county to acquire and possess the operative railway property of the holder of such supplemental permit as provided in section 131 of this charter. No line of street railway in the city and county, or any portion thereof, operated under authority of any permit, authorized by the provisions of this charter, shall be abandoned unless the holder of such permit shall, by written petition to the board of supervisors, request authority to make such abandonment, and unless the board of supervisors, upon receiving such a petition, shall authorize such abandonment by ordinance and shall first find that the public interest will not be injured or suffer by such abandonment and shall so recite in the ordinance authorizing such abandonment.

Abandonment of Street Car or Other Transportation Service

SECTION 132.1. In the event of the unification, consolidation or merger of the San Francisco Municipal Railway with any privately owned street railway system or with any portion or facility thereof, no line of street railway, bus line, trolley bus line or cable car line, or any portion thereof, which is now or will be owned by the City and County of San Francisco and is now or will be operated by the public utilities commission, shall be abandoned nor shall the service be discontinued thereon except upon recommendation by the public utilities commission, in writing, to the board of supervisors. The recommendation of the public utilities commission shall be acted upon by the board of supervisors within thirty days from the receipt thereof. For the purpose of hearing such recommendation a public hearing shall be held. If the said recommendation is disapproved by at least nine votes it shall not become effective and such service shall be continued. If said recommendation is not disapproved by nine votes of said board the recommendation shall become effective forthwith. Failure of the board of supervisors to act on said recommendation within thirty days shall be deemed as the approval of said recommendation of the public utilities commission; provided that the public utilities commission may without reference or recommendation to the board of supervisors abandon or discontinue service on any line of street railway, bus line, trolley bus line, or cable car line, or any portion thereof, which has been in operation for less than one year next immediately preceding such order of abandonment or discontinuance. *Ratified by the Legislature,* January 11, 1943.

Regulation of Street Railways

SECTION 133. The public utilities commission, subject to the provisions, limitations and restrictions in this charter contained, shall have power to regulate street railroads, cars and tracks; to permit two or more lines of street railways operating under different management to use the same street, each paying an equal portion for the construction and repair of the tracks and appurtenances used by the said railways jointly for such number of blocks consecutively, not exceeding ten blocks; to regulate rates of speed and propose such ordinances to the

board of supervisors as are necessary to protect the public from danger or inconvenience in the operation of such roads.

No person, firm or corporation shall ever be granted the exclusive right to operate a street or other railroad through, in or under any tunnel, subway or viaduct constructed or acquired by the levy, in whole or in part, of special assessment upon private property for such construction or acquisition. Two or more lines of street railways operated under different management may use such tunnel, subway or viaduct for the entire length thereof and for five consecutive blocks approaching each end thereof, each management paying an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly. The city and county in the operation of a municipal railway may use any such tunnel, subway or viaduct either singly or jointly with any privately operated railway for the entire length thereof and for any number of blocks approaching each end thereof; and in case of joint use of tracks, shall pay an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly.

SCHOOLS

Board of Education

SECTION 134. All of the public schools of the school district of the city and county shall be under the control and management of a board of education, composed of seven commissioners, who shall be nominated by the mayor and be subject to confirmation or rejection by vote of the electors as in this section provided, and who shall be subject to recall, and to suspensions and removal in the same manner as elective officers, as provided by this charter. The term of each member shall be five years, commencing on the 8th day of January following their respective nominations, provided that each such five-year term shall begin at the expiration of the respective terms of members as existing at the time this charter shall go into effect. The compensation of each member shall be fifteen dollars ($15) per day when the board is in session and ten dollars ($10) per day when engaged in committee work under the direction of the board, provided that the total amount for such session and committee work for the whole board shall not exceed six thousand dollars ($6,000) for any fiscal year, and that only those actually attending a session or doing such committee work shall be entitled to compensation therefor.

Nominations of members of the board of education shall be made, subject to confirmation by the electors, by the filing by the mayor, with the registrar of voters between the 1st and the 10th day of September in each year prior to the expiration of the term or terms of members, the name of one qualified citizen, or two, as the case may be, to serve as a member or members, respectively, of said board for the regular term or terms commencing on the 8th day of January in the succeeding year.

The form of ballot shall be as provided in section 184 of this charter and if a majority of the qualified electors voting on said nomina-

tion or nominations shall vote in favor thereof, said nomination shall be confirmed and the person or persons named shall take office on the 8th day of January next following. If a majority of the electors vote "No," the nomination shall stand rejected, and such person shall not be eligible for nomination as a member of the board of education for a period of at least three years. Vacancies occurring on said board shall be filled by the mayor for the unexpired terms.

Powers and Duties of Board of Education

Section 135. In addition to the powers conferred by the general laws of the state and other provisions of this charter, the board of education shall have power to establish and maintain such schools as are authorized by the laws of the state as the board may determine, and to change, modify, consolidate or discontinue the same as the public welfare may require.

The board shall also have power to employ such teachers and other persons as may be necessary to carry into effect its powers and duties; to fix, alter and approve their salaries and compensations, except as in this charter otherwise provided, and to withhold for good and sufficient cause the whole or any part of the wages, salary, or compensation of any person or persons employed as aforesaid; and to promote, transfer and dismiss teachers, but no teacher shall be dismissed from the department except for insubordination, immoral or unprofessional conduct, or evident unfitness for teaching. Appointment, promotion, assignment and transfer of deputy superintendents, principals, assistants, teachers and all other certificated employees shall be made by the board of education upon the recommendation of the superintendent of schools. All promotions of teachers shall be based solely on merit. Nothing in this section shall be construed to prevent the board from removing teachers as provided in this charter and the laws of the state. Charges against teachers must be made in writing by the superintendent after investigation and shall be finally passed upon by the board after giving the accused teacher a fair and impartial hearing before said board.

All teachers, heads of departments, vice-principals, principals, supervisors and directors shall be classified as permanent employees in their respective positions after they have been successfully employed in such positions in the school department for a probationary period of three years. In the absence of any action to the contrary by the board of education at the end of the third year of such employment, the classification shall be considered as permanent. A deputy superintendent shall be classified as a permanent employee in such position in the school department in which he was permanently employed immediately prior to his appointment as deputy.

Non-teaching and non-technical positions, and positions not required by law to be filled by a person holding a teaching or other certificate as required by law, shall be employed under the civil service provisions of this charter and the compensations of such persons shall be fixed in accordance with the salary standardization provisions of this charter.

The board of education shall have power to grant and to renew, and, for insubordination, immoral or unprofessional conduct or unfitness for teaching, to revoke teachers' certificates.

The board shall establish regulations subject to the approval of the controller for the disbursement of all moneys belonging to the school department or the school fund or funds, and to secure strict accountability in the expenditure thereof, and to provide for the prompt payment of all salaries due and allowed to officers, teachers and other employees of the school department.

Notwithstanding any other provision of this charter to the contrary, the board of education of the San Francisco Unified School District may authorize payment of the annual compensation of certificated employees in twelve equal payments, the first such equal payment being made on or before the 5th day of August of each school year, and continuing each month thereafter until the full annual compensation shall be paid, provided that the last equal payment shall be made not later than the 5th day of July of the succeeding school year, and provided further that in the event that the certificated employee for any reason does not perform the full year of service, said certificated employee shall receive only such amount as is authorized by the school code of the State of California. In the event said certificated employee has been paid an amount greater than such employee is entitled to receive under the provisions of the school code of the State of California, said certificated employee shall be liable therefor and within thirty days after such excess payment said certificated employee shall reimburse the San Francisco Unified School District for the excess, and said certificated employee shall not be paid any of his retirement accumulations or credits until the San Francisco Unified School District has been reimbursed for the said excess.

The board shall, between the 1st and 21st days of May of each year, adopt a schedule of salaries for the next ensuing fiscal year for teachers and other employees of the school department. Compensations of non-teaching and non-technical employees shall be fixed in accordance with the salary standardization provisions of this charter. *Ratified by the Legislature*, January 11, 1943. *Refer to Digest.*

Superintendent of Schools

SECTION 136. The superintendent of schools shall be the executive officer of the board of education. He shall be appointed by said board to serve for a term of four years and he shall receive an annual salary of $10,000 unless an increase in said salary shall be fixed by the board of education and approved by the board of supervisors. The incumbent in the office of superintendent on the 1st day of July, 1942, shall continue to serve at the pleasure of the board.

During his term of office the superintendent may be removed from his office, as in this section hereinafter provided, for misconduct or incompetency after charges setting forth the nature and character of said misconduct or incompetency are filed against the said superintendent. Said charges must be in writing and shall be signed by at least two members of the board of education. A copy of said charges, together with a notice of the time and place of the hearing on the same, shall within five days after

the filing of the same be served upon the said superintendent. The mailing of a copy of said charges, with notice of time and place of hearing on the same, by United States registered mail, with the proper amount of postage prepaid thereon, addressed to said superintendent at his last known place of residence, shall be deemed to be a service of said charges as provided for in this section. A public hearing on said charges shall be had by the board of education not less than ten, nor more than twenty, days after the filing of said charges, provided that full power and authority is hereby given to the board of education to continue said hearing from time to time not to exceed sixty days from the commencement thereof, provided that for good cause said board may grant a further continuance on said hearing. The superintendent shall have the right to answer said charges, to appear at the hearing thereof and to be represented by counsel thereat for the purpose of defending himself against said charges. Pending the determination of said charges, the superintendent may be suspended from his office by a majority vote of the board of education, and the board may appoint a qualified person to discharge the duties of said superintendent during the period of suspension. If the board of education after hearing said charges shall by a two-thirds vote of all the members, determine that said charges have been sustained, it may by the same vote remove said superintendent from his office. No member of the board shall be entitled to vote on the removal of said superintendent unless he or she has been present at the entire hearing of such charges, provided that any member of the board who has not been present may vote for the removal of the superintendent, if such member has read a transcript of all the testimony taken on said hearing during his absence therefrom, and shall file with the board an affidavit to this effect. If said charges are not sustained by a two-thirds vote of all the members of said board, or if after said charges are sustained, the superintendent is not removed from office as a result thereof, said superintendent shall be reinstated in his position and shall be allowed his salary for the time that he has been under suspension, together with the costs of defending himself against said charges, including a reasonable fee for his attorney to be fixed and allowed by the board. If the charges are sustained, and as a result thereof said superintendent is removed from office, no further salary shall be allowed to said superintendent from the date of his suspension. In the hearing and determination of said charges filed against said superintendent, the judgment of said board of education shall be final unless in determining the sufficiency of said charges said board of education commits a clear abuse of discretion.

The superintendent shall have the powers and duties specified by this charter for department heads, in addition to such powers and duties as are fixed by general law.

The positions of superintendent and deputy superintendent shall be held only by persons of expert or technical training, but shall not be subject to any provisions of this charter prescribing a residence qualification for officers or appointees, provided, however, that during their incumbency appointees to such positions shall reside in the city and county, and in case any appointee shall fail so to do, his appointment shall at once be revoked by the board. *Ratified by the Legislature,* January 11, 1943.

Deputy Superintendents

SECTION 137. The superintendent shall appoint such deputy superintendents as shall be authorized by the board of education, and in case of vacancy, such vacancy shall be filled by the superintendent. Such appointments of deputy superintendents shall require the confirmation of the board of education and the appointees shall serve during the pleasure of the superintendent and the board of education. Deputy superintendents shall have had at least five years' experience as teachers. Should it be advantageous to appoint one or more deputy superintendents to supervise a special line of educational work, such appointment may be made regardless of teaching experience by an affirmative vote of five members of the board, but the appointee must have had five years experience in the line of work which he will be called upon to supervise.

Duties of Superintendent

SECTION 138. In addition to the duties imposed by the general laws of the state, it shall be the duty of the superintendent to observe and enforce the regulations of the board of education and to see that no religious or sectarian books or teachings are allowed in the schools; to report to the board of education annually, on or before the 1st day of October, and at such other times as the board may require, all matters pertaining to the condition and progress of the public schools of the city and county during the fiscal year, with such recommendations as he may deem proper; to inform the board of the condition of schools, school houses and of other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in the city and county and for the care and improvement of the property of the school department; to visit and examine, with the assistance of his deputies, all the schools at least twice a year and determine their condition and needs and to report to the board once a month upon the standing of schools examined by him and his deputies; to recommend rules for the promotion of pupils from grade to grade, from school to school, and for the transfer and graduation of pupils; to recommend to the board the courses of study, the text books and books for supplementary use in the public schools, and the purchase of such apparatus, books, stationery and other classroom supplies as may be required in the schools.

City Board of Examination

SECTION 139. The superintendent and the deputies shall constitute the city board of examination and shall have power to recommend to the board of education the issuance of teachers' certificates in accordance with the laws of the state, and, for immoral or unprofessional conduct, profanity, intemperance or evident unfitness for teaching, to recommend to the board of education the revocation of any certificates previously granted by the board.

CIVIL SERVICE

Civil Service Commission

SECTION 140. There is hereby established a civil service commission which is charged with the duty of providing qualified persons for appointment to the service of the city and county. All appointments in the public service shall be made for the good of the public service and solely upon merit and fitness, as established by appropriate tests, without regard to partisan, political, social or other considerations.

The civil service commission shall consist of three members, appointed by the mayor. The commissioners in office at the time of the adoption of this charter shall continue in office until the expiration of the terms for which they were appointed, and their successors shall be appointed for terms of six years beginning on the 1st day of July of each odd-numbered year. The persons so appointed shall, before taking office, make under oath and file in the office of the county clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the office of civil service commissioner in the spirit of this declaration." A commissioner may be removed only upon charges preferred, in the same manner as in this charter provided for elective officers. Each of the commissioners shall receive a monthly salary of one hundred dollars ($100).

The commissioners shall appoint a secretary, who shall be the executive officer of the commission.

Special meetings of the commission for the purpose of considering and adopting examination questions shall not be open to the public.

Powers and Duties

SECTION 141. The civil service commission shall be the employment and personnel department of the city and county and shall determine appointments on the basis of merit and fitness, as shown by appropriate tests. The commission shall classify, and from time to time may reclassify, in accordance with duties and responsibilities of the employment, and training and experience required, all places of employment in the departments and offices of the city and county not specifically exempted by this charter from the civil service provisions thereof, or which may be created hereafter by general law and not specifically exempted from said civil service provisions. The commission shall likewise classify all other positions or other places of employments in the city and county service specifically exempted from the civil service provisions of this charter, but which, by the provisions of section 151, thereof, are made subject to classification for salary standardization purposes on the basis of duties and responsibilities of the employment, and training and experience required. The civil service commission shall be the judge of such classification.

The commission shall also, in accordance with duties and responsibilities, allocate, and from time to time may reallocate, the positions to the various classes of the classification. The allocation or re-allocation of a position shall not adversely affect the civil service rights of an

occupant regularly holding such position. No person shall hold a position outside of the classification to which he has been appointed, provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which his chief may temporarily assign him.

The class titles and class numbers assigned to positions by the commission shall be used in all records, reports, statements and communications, including the compensation schedule, annual budget and salary ordinance, payrolls, and appropriation ordinances.

The commission shall adopt rules to carry out the civil service provisions of this charter and, except as otherwise provided in this charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment, or completion of work; the filling of positions, temporary, seasonal and permanent; classification; approval of payrolls; and such other matters as are not in conflict with this charter. The commission may, upon one week's notice, make changes in the rules, which changes shall thereupon be published, and be in force; provided that no such change in rules shall affect a case pending before the commission. The secretary may certify eligibles and payrolls and conduct examinations under the rules of the commission.

The commissioners shall have power to institute and prosecute legal proceedings for violations of any of the civil service provisions of this charter. *Refer to Digest.*

Positions

SECTION 142. All positions in all departments and offices of the city and county, including positions created by laws of the State of California, where the compensation is paid by the city and county, shall be included in the classified civil service of the city and county, and shall be filled from lists of eligibles prepared by the civil service commission, excepting (1) positions in which attorneys and physicians are employed in their professional capacity to perform only duties included in their professions, but exclusive of any administrative or executive positions for which such professional status constitutes only part of the qualifications therefor; (2) inmate help or student nurses, or part-time services, where the compensation including the value of any allowances in addition thereto is less than eighty dollars ($80) per month; and (3) persons employed in positions outside the city and county upon construction work being performed by the city and county when such positions are exempted from said classified civil service by an order of the civil service commission; and (4) persons employed in positions in any department for expert professional temporary services, and when such positions are exempted from said classified civil service for a specified period of said temporary service, by order of the civil service commission; and (5) such positions as, by other provisions in this charter, are specifically exempted from, or where the appointment is designated as exclusive of, the civil service provisions of this charter.

The civil service rights, acquired by persons under the provisions

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of the charter superseded by this charter, shall continue under this charter.

Where existing positions that have heretofore been exempt from civil service examinations are now made subject to examination by this charter, the incumbents of such positions who have held such positions for a period of one year continuously next preceding the time that this charter shall go into effect, shall be continued in their positions as if appointed thereto after examination and certification from a list of eligibles and shall be governed thereafter by the provisions of this charter, provided, however, the provisions of this paragraph shall not apply to positions heretofore defined and classified by the civil service commission as "institutional help".

Any person holding a salaried office under the city and county, whether by election or appointment, who shall, during his term of office, hold or retain any other salaried office under the government of the United States, or of this state, or who shall hold any other salaried office connected with the government of the city and county, or who shall become a member of the legislature, shall be deemed to have thereby vacated the office held by him under the city and county. *Ratified by the Legislature,* April 14, 1937. *Refer to Digest.*

Positions in Treasurer's Office

SECTION 142.1. Any person who has performed the duties of general clerk-stenographer in the office of the treasurer continuously for five years immediately prior to the effective date of this amendment and who on said date shall be performing said duties, is hereby confirmed in said position and thereafter shall hold the same pursuant to the civil service provisions of this charter and shall be entitled to all the benefits and privileges of said provisions. *Ratified by the Legislature,* April 14, 1937.

Creation of Positions

SECTION 143. Positions in any department or office of the city and county may be created, as provided by this charter, by appropriation ordinance of the board of supervisors. Copy of each such ordinance creating or abolishing positions shall be filed, on the approval thereof, with the civil service commission by the clerk of the board of supervisors. Before the appointing officer shall make recommendation for the creation of any new or additional position in any department or office, he shall request and receive from the commission the proper designation and classification of such position based on the duties and responsibilities thereof, and if such position is included in the classified civil service, the commission may, in writing, express to the appointing officer its opinion as to whether or not such position is needed.

Immediate notice in writing shall be given to the civil service commission by the appointing officer of each department and office of the city and county of the creation or abolition of any position, or of any change in duties if the position is included in the classified civil service, or of any appointment, resignation, suspension, dismissal or other creation of vacancy therein, with the date of any such change. If said appointing

officer is also empowered to establish compensation rates or make changes therein, he shall notify the commission of any such rate or change therein. The commission shall maintain a record of all such notifications.

The term "appointing officer" as used in this charter shall also include any board or commission in the exercise of its power to appoint a department head or other officer or employee designated by this charter as appointive by such board or commission. *Refer to Digest.*

Applications

SECTION 144. Any citizen having the qualifications prescribed by section 7 of this charter may submit himself for any examination under conditions established by the civil service commission. The commission shall advertise in the official paper the time, place and general scope of all examinations for entrance into the public service and may take further appropriate means to interest suitable applicants. When examinations for promotion are to be held, the commission shall give notice thereof to all persons in positions entitling them under the civil service rules, to participate in such examination, by posting information thereof in the office of the commission for a period of ten days and notifying the departments concerned. *Refer to Digest.*

Qualifications and Tests

SECTION 145. All applicants for places in the classified service shall submit to tests, which shall be competitive and without charge to the applicants. The commission shall control all examinations and may employ suitable persons in or out of the public service to act as examiners. The tests may be written, oral, mechanical or physical, or any combination of them, practical in character and related to matters fairly to test the relative capacity of the applicants for the positions to be filled. The commission shall be the sole judge of the adequacy of the tests to rate the capacity of the applicants to perform service for the city and county. The commission may, for each examination, establish a passing mark or may determine the total number of persons who shall constitute the list of eligibles. The commission shall prepare from the returns of the examiners the list of eligibles, arranged in order of relative excellence. No question submitted to applicants shall refer to political or religious opinions or fraternal affiliations.

Applicants for entrance positions in the uniformed forces of the fire and the police departments shall be not less than twenty-one years of age, nor more than thirty-five years of age at the time of appointment and shall have the physical qualifications required for enlistment in the United States Army, Navy and Marine Corps.

Applicants for positions in the mechanical trades and occupations may, in the discretion of the commission, be rated solely on experience and physical qualifications which may be demonstrated by such evidence and in such manner as the commission may direct, and such applicants may be permitted to such further tests as the commission may require. Examinations of laborers shall relate only to physical qualifications and

experience, and laborers establishing their fitness shall rank upon the register in order of priority of application.

The commission may remove all names from the list of eligibles after they have remained thereon for more than two years and all names thereon shall be removed at the expiration of four years. The commission may, however, provide in the scope-circular of any examination that the list of eligibles secured thereby shall automatically expire at a date not less than two or more than four years after the adoption of such list.

Veterans with thirty days or more actual service, and widows of such veterans, who become eligible for appointment by attaining the passing mark in any entrance examination, shall be allowed an additional credit of five per cent in making up the list of eligibles secured by such examination. The term "veteran" as used in this section shall be taken to mean any person who has been mustered into, or served in, the Army, or enlisted in, or served in, the Navy or Marine corps, of the United States, in time of war and received an honorable discharge or certificate of honorable active service. In the case of promotive examinations, when the passing mark has been attained, a credit of three per cent shall be allowed to veterans or to widows of such veterans when requested by such veterans or widows. When an eligible has secured a permanent appointment from a list of eligibles derived from an entrance examination in which he has been allowed additional credits of five per cent as herein provided, and has served the full probationary period therein as provided in this charter, such other additional credits of five per cent that have been allowed him on lists of eligibles derived from other entrance examinations shall be automatically cancelled, and his rank on such other list or lists revised to accord with his relative standing before such additional credits were added, and he shall not be allowed such additional credits in any other entrance examinations. If he has received a permanent appointment from a list of eligibles derived from a promotive examination in which he has requested and been allowed the additional credits of three per cent as herein provided, and has served the full probationary period therein as provided in this charter, such additional credits of three per cent that have been allowed him on lists of eligibles derived from other promotive examinations shall be automatically cancelled, and his rank on such other list or lists revised to accord with his relative standing before such additional credits were added, and he shall not be allowed such additional credits in any other promotive examinations. The civil service commission may, for services or employment specified by the commission, allow general or individual preference, but not less than ten per cent, for entrance appointment of veterans who have suffered permanent disability in line of duty, provided that such disability would not prevent the proper performance of the duties required under such service, or employment, and provided that such disability is of record in the United States Veterans' Bureau. *Ratified by the Legislature,* February 8, 1940. *Refer to Digest.*

Limited Tenure Appointments

Section 145.1. When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under

section 145 hereof, the civil service commission may qualify applicants for wartime appointments to entrance positions through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the civil service commission adopted pursuant thereto and the tests shall be adequate in the judgment of the civil service commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in section 145 hereof. Appointments made under the provisions of this section shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided in section 145 hereof but in no event to exceed six months beyond the cessation of hostilities. Applicants who qualify for limited tenure appointments under the provisions of this section shall be appointed to positions in order of priority of filing applications. Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the civil service commission without reference to the procedures governing removals set forth in section 154 hereof. Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this charter or by rule of the civil service commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in section 145 of the charter.

Non-civil service appointments in the absence of civil service eligibles as provided in section 149 of this charter shall not be authorized if applicants qualified for limited tenure appointments are available. The civil service commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in section 145 hereof. If its annual appropriation is insufficient to meet the cost of the examinations required to establish registers of eligibles through the examination procedures set forth in section 145 hereof, or to qualify applicants for limited tenure appointments as herein provided, the commission shall report to the mayor the estimated cost thereof and the mayor shall request and the supervisors shall make supplemental appropriations therefor in the manner provided herein for supplemental appropriations.

The civil service commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments. *Ratified by the Legislature,* January 11, 1943.

Promotions

Section 146. Whenever it deems it to be practicable, the civil service commission shall provide for promotion in the service on the basis of such examinations and tests as the commission may deem appropriate, and shall, in addition, give consideration to ascertained merit and records of city and county service of applicants. The commission shall announce in

the examination scope circular the next lower rank or ranks from which the promotion will be made. Except as specifically provided in other sections of this charter, all promotions in the uniform forces of the police and fire departments, respectively, shall be made from the next lower civil service rank attained by examinations, as herein set forth, giving consideration also to meritorious public service and seniority of service. All such promotive examinations in the police and fire departments shall be entirely of a written character, and all questions asked or problems given in said examinations shall pertain to matters concerning the duties of members of the department for which the examination is held.

Fifteen per cent of the total credits obtainable under any promotive examination for eligibles for the police or fire department shall be allowed for seniority of service, which said credits shall be distributed as follows:

Examinations for Eligibles for the Police Department

(a) For Promotion to the Rank of Sergeant of Police:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of fifteen per cent of the credits of the entire examination is reached;

(b) For Promotion to the Rank of Lieutenant of Police:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits of the entire examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of corporal or sergeant until a total of six per cent of the credits of the entire examination is reached.

(c) For Promotion to the Rank of Captain of Police:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits for said examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of lieutenant until a total of six per cent of the credits of the entire examination is reached.

(d) In addition to the foregoing credits for seniority, ten per cent of the total credits allowed for said examinations shall be allowed for ascertained merit and meritorious public service; sixty per cent of said ten per cent to be allowed to each applicant for a clean record in the department, and forty per cent of said ten per cent shall be the maximum which may be allowed for acts of meritorious public service according to the judgment of the commission.

Examinations for Eligibles for the Fire Department

Fifteen per cent of the total credits allowed for any promotive examination shall be allowed for seniority of service, which said credits shall be distributed as follows:

(e) For Promotion to the Rank of Lieutenant in the Fire Department:

One per cent of the total credits allowed for the entire examination shall

be allowed for each year of service in the fire department until a maximum of fifteen per cent is reached;

(f) For Promotion to the Rank of Captain in the Fire Department:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent is reached; and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service in the rank of lieutenant, until a total of six per cent of the credits of the entire examination is reached.

(g) For Promotion to all ranks above Captain in the Fire Department:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent of said credits is reached, and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service as an officer in the rank held by the applicant at the time of the examination, until a total of six per cent of the credits of the entire examination is reached.

(h) In addition to the foregoing credits for seniority, ten per cent of the total credits allowed for said examinations shall be allowed for ascertained merit and meritorious public service; sixty per cent of said ten per cent to be allowed to each applicant for a clean record in the department, and forty per cent of said ten per cent shall be the maximum which may be allowed for acts of meritorious public service according to the judgment of the commission.

(i) In promotional examinations in the fire department, seniority of service, meritorious public service and ascertained merit shall be added to the credit obtained by the applicant in the written portion of said examination, and shall be taken into consideration by the commission in determining his passing mark and his place upon the list of eligibles.

(j) In computing the credits for service in both the police department and the fire department, fractional parts of the year shall not be considered. *Ratified by the Legislature,* January 21, 1941. *Refer to Digest.*

No Aid, Hindrance, Fraud or Collusion Permitted

SECTION 147. No person or officer shall, by himself or in cooperation with other persons, defeat, deceive or obstruct any person in respect to his or her right of examination; or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing; or make any false representations concerning the same, or concerning the person examined; or furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person of being appointed, employed or promoted.

Any eligible securing standing on a list by fraud, concealment of fact or violation of commission rules shall be removed from such list and if certified or assigned to a position shall be removed therefrom.

Inspection of Civil Service Examination Papers

SECTION 147.1. After the civil service commission has prepared and

published or posted a list of eligibles, arranged in order of relative excellence, as the result of any examination held by said commission, said list shall not be finally approved for two weeks after the date of the publication or posting of said list, during which time all examination papers, questions and answers, and all marks and grades given on any test given in said examination shall be open to public inspection and copying by any citizen, provided that the identity of the examiner giving any mark or grade in an oral test shall not be disclosed; and provided further that the commission may require the payment of a fee of not more than one dollar ($1) for the inspection of all of the papers relating to the examination of any one person participating in said examination; and provided further that a participant may examine his own examination papers without charge. The civil service commission shall have power to correct any error which in its judgment may have occurred in the rating of any participant in said examination, and to alter said published or posted list of eligibles and to make changes accordingly therein which in the opinion of said commission may be justified by any re-examination of said papers, questions, answers, marks or grades given in said examination; provided that said changes shall be made within a period of not more than sixty (60) days after the date of the publication or posting of said list. *Ratified by the Legislature,* March 12, 1938.

Requisition, Certification and Appointment

Section 148. Whenever a position controlled by the civil service provisions of this charter is to be filled, the appointing officer shall make a requisition to the civil service commission for a person to fill it. Thereupon, the commission shall certify to the appointing officer the name and address of the person standing highest on the list of eligibles for such position. In case the position is promotive, the commission shall certify the name of the person standing highest on such list. In making such certification, sex shall be disregarded except when a statute, a rule of the commission or the appointing officer specifies sex.

From the requisition of the appointing officer or otherwise, the commission shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The commission shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Any appointment to a position declared permanent by the civil service commission shall be on probation for a period of six months, provided that the probationary period for entrance positions in the uniform rank of the police department shall be for one year. At any time during the probationary period the appointing officer may terminate the appointment. The civil service commission shall inquire into the circumstances and may declare such person dismissed, or may return the name to the list of eligibles for certification to another department. Immediately prior to the expiration of the probationary period, the appointing officer shall report to the civil service commission as to the competence of the probationer

for the position, and, if competent, shall recommend permanent appointment. *Ratified by the Legislature,* April 14, 1937. *Refer to Digest.*

Emergency Appointments

SECTION 149. When no list of eligibles is available for a position in the class requisitioned by the appointing officer, the commission may certify for civil service temporary appointment an eligible from another list deemed by the commission to be suitable to temporarily provide the service desired; or may authorize the appointing officer to make a non-civil service emergency appointment thereto for a period not exceeding ninety days and only until a regular appointment under the provisions of this charter can be made. If a non-civil service emergency appointment is authorized, the commission shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, it shall report to the mayor the estimated cost thereof, and the mayor shall request and the supervisors shall make supplemental appropriation therefor in the manner provided herein for supplemental appropriations. No person shall be compensated under any non-civil service emergency appointment or appointments as authorized under the provisions of this paragraph for a period exceeding ninety days in any fiscal year, and no claim or warrant therefor shall be approved, allowed or paid for any compensation in excess of such ninety days.

Whenever the board of supervisors by a three-fourths vote of all its members shall declare that an unemployment emergency exists throughout the city and county because of extraordinary conditions due to unemployment, and shall fix the period during which such unemployment emergency shall be officially recognized, the civil service commission shall then have power to exempt from civil service examinations during such emergency period all places of employment that may be created by special appropriation to relieve such unemployment emergency; provided, that no action shall be taken under the provisions of this paragraph that will adversely affect the rights of civil service eligibles for employment in the usual temporary and permanent positions that are provided for in the annual salary ordinance. The civil service commission shall adopt special rules for the government of appointments to the emergency positions that may be created under the authority of this paragraph. *Ratified by the Legislature,* January 12, 1933.

Verification of Payrolls

SECTION 150. All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the civil service commission before presentation to the controller.

The secretary of the commission shall examine and approve such payroll for all persons legally appointed to or employed in positions legally established under this charter. The payrolls thus approved, with notation of any item thereof disapproved, shall be then certified by the secretary of the commission and transmitted by him to the controller. The controller shall not approve and the treasurer shall not pay any claim for personal services, or pay check or warrant for salary, wages or compensation unless the same shall have been approved by the said secretary.

For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any department head or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said department heads or other officers, and shall be subject to examination and approval by the secretary of the civil service commission and the controller in the same manner as payments for personal services.

The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other moneys received by him, in the course of his office or employment, into the city and county treasury except as provided in section 32 of this charter.

No officer or employee shall be paid for a greater time than that covered by his actual service.

Standardization of Compensation

SECTION 151. The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as in this section provided, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

Compensations specified in this charter shall not be subject to the provisions of this section. Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than fifty dollars ($50) per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a department head, only with the approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

In fixing schedules of compensation as in this section provided, the civil service commission shall prepare and submit to the board of supervisors and the board shall adopt a schedule of compensations which shall include

all classifications, positions and places of employment the wages or salaries for which are subject to the provisions of this section; provided, that the civil service commission shall from time to time prepare and submit to the board of supervisors and the board shall adopt amendments to the schedule of compensations which are necessary to cover any new classifications added by the civil service commission. Under the schedules of compensation recommended by the civil service commission and adopted by the board of supervisors as herein provided, like compensation shall be paid for like service, based upon the classification as provided in section 141 of the charter, and for those classifications of employment in which the practice is customary, the proposed schedules of compensation shall provide for minima, intermediate, and maxima salaries and for a method of advancing the salaries of employees from the minimum to the intermediate and to the maximum with due regard to seniority of service. The compensations fixed as herein provided shall be in accord with the generally prevailing rates of wages for like service and working conditions in private employment or in other comparable governmental organizations in this state; provided, that for specialized services which are peculiar to the municipal service and not duplicated elsewhere in private or other governmental organizations in this state, the commission shall recommend and the board of supervisors shall fix a compensation which shall be in accord with the wages paid in private employment or other governmental organizations in the state for the nearest comparable service and working conditions; and provided further that if the civil service commission determines on the basis of facts and data collected as hereinafter provided that the rates generally prevailing for a particular service in private employment or in other governmental organizations are inconsistent with the rates generally prevailing in private employment or other governmental organizations for services requiring generally comparable training and experience, the commission shall set forth these data in its official records and shall recommend and the board of supervisors shall fix a compensation for such service that shall be consistent with the compensations fixed by the board of supervisors for other services requiring generally comparable training and experience; and provided further that the minimum compensation fixed for full time employments subject to the civil service provisions of this charter shall be not less than $106 per month.

The proposed schedules of compensation or any amendments thereto shall be recommended by the civil service commission solely on the basis of facts and data obtained in a comprehensive investigation and survey concerning wages paid in private employment for like service and working conditions or in other governmental organizations in this state. The commission shall set forth in the official records of its proceedings all of the data thus obtained and on the basis of such data the commission shall set forth in its official records an order making its findings as to what is the generally prevailing rate of pay for each class of employment in the municipal service as herein provided, and shall recommend a rate of pay for each such classification in accordance therewith. The proposed schedules of compensation recommended by the civil service commission shall be transmitted to the board of supervisors, together with a compilation of a summary of the data obtained and considered by the civil service commission and a comparison showing existing schedules. Before being

presented to the board of supervisors for consideration, the proposed schedules and a comparison with existing schedules shall be published once a week for two weeks.

The board of supervisors may approve, amend or reject the schedule of compensations proposed by the civil service commission; provided, that before making any amendment thereto the data considered by the board of supervisors as warranting such amendment shall be transmitted to the civil service commission for review and analysis and the commission shall make a report thereon to the board of supervisors, together with a report as to what other changes, and the cost thereof such proposed amendment would require to maintain an equitable relationship with other rates in such schedule.

Where any compensation paid on January 1, 1931, is higher than the standard compensation fixed as provided in this section for such position or employment, said compensation shall be continued to the incumbent of such position as long as he legally holds said position, and department heads, in cooperation with the civil service commission where said commission has jurisdiction, shall continuously offer all possible opportunities to said incumbents to assume duties and responsibilities in higher classifications consistent with the higher rates of compensation hereby continued. The salaries and wages paid to employees whose compensations are subject to the provisions of this section shall be those fixed in the schedule of compensations adopted by the board of supervisors as herein provided and in accord with the provisions of the ordinance of the board of supervisors adopting the said schedule, and the compensations set forth in the budget estimates, and the annual salary ordinance and appropriations therefor shall be in accord therewith.

Not later than January 15, 1944, and every five years thereafter and more often if in the judgment of the civil service commission or the board of supervisors economic conditions have changed to the extent that revision of existing schedules may be warranted in order to reflect current prevailing conditions, the civil service commission shall prepare and submit to the board of supervisors a schedule of compensations as in this section provided. A schedule of compensations or amendments thereto as provided herein which is adopted by the board of supervisors on or before April 1 of any year shall become effective at the beginning of the next succeeding fiscal year, and a schedule of compensations or amendments thereto adopted by the board of supervisors after April 1 of any year shall not become effective until the beginning of the second succeeding fiscal year. The board of supervisors shall appropriate twelve thousand five hundred dollars ($12,500) to the civil service commission to be known as the salary survey fund and to be used exclusively for defraying the cost of surveys of wages in private employment and in other governmental jurisdictions and making reports and recommendations thereon and publication thereof as herein provided. No expenditures shall be made therefrom except on authorization of board of supervisors. In the event of the expenditure of any of said funds, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said salary survey fund.

Where compensations for services commonly paid on an hourly or a per diem basis are established on a weekly, semi-monthly or monthly

salary basis for city and county service, such salary shall be based on the prevailing hourly or per diem rate, where this can be established, and the application thereto of the normal or average hours or days of actual working time, in the city and county service, including an allowance for annual vacation. Every person employed in the city and county service shall, after one year's service, be allowed a vacation with pay of two calendar weeks, annually, as long as he continues in his employment. *Ratified by the Legislature,* January 11, 1943.

Service Records

SECTION 152. The civil service commission shall establish an inspection service for the purpose of investigating the conduct of and action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the commission in making its investigations and any person hindering the commission or its agents shall be subject to suspension.

Leaves of Absence

See page 112 A at back of book

SECTION 153. Leaves of absence to officers and employees of the city and county shall be governed by rules established by the civil service commission, provided that leave of absence to any officer or employee for the purpose of leaving the city and county, taking a position outside of the city and county service, or accepting a position in some department or office of the city and county other than the one in which he is employed and where the duties are in no way related to the duties covered by his civil service classification, shall be limited to six months; and provided, further, that no limit shall be placed on a leave of absence granted to enable an officer or employee to accept promotion to a non-civil service position in the same department in which he holds civil service status, or promotion to co-related work in another department or office of the city and county.

Leaves of absence shall be granted to officers and employees of the City and County of San Francisco and non-certificated officers and employees of the San Francisco Unified School District and to eligibles on lists for appointment to positions therein for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty with the armed forces or the merchant marine when such disability shall extend beyond such period.

Whenever any officer or employee of the City and County of San Francisco, or any non-certificated officer or employee of the San Francisco Unified School District or any eligible on a list for appointment to positions therein shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report for service or training in the armed forces of the United States, or in the armed forces of the State of California, and

shall be inducted into said service, said officer or employee or eligible shall be entitled to a leave of absence from his office or position or eligibility during the time of such service and for a period not to exceed three months after the expiration thereof.

In addition to such leaves, the board of supervisors by a three-fourths vote may, on the recommendation of the civil service commission, provide by ordinance that leaves of absence shall be granted to such officers, employees, and eligibles during time of war or in time of peace for other service directly connected with the prosecution of the war or national defense or preparedness. Leaves granted pursuant to the provisions of the two preceding paragraphs and ordinances adopted pursuant to the provisions of this paragraph shall be designated military leaves.

If a person on military leave has been appointed to a permanent position, he shall be entitled to resume such position at the expiration of his leave, and if any civil service rights accrue to any appointee by reason of seniority, the term of service shall be reckoned a part of his service under the city and county, exclusive of service under the retirement provisions of this charter. If persons on military leave during time of war have standing on an eligible list, they shall retain their places thereon, and upon presenting an honorable discharge or certificate of honorable service from such wartime service shall be preferred for appointment for a period of four years after the proclamation of peace in the order of standing upon such register at the time of induction into such wartime service and before candidates securing standing through an examination held subsequent to such induction. If a person on military leave during time of peace has standing on an eligible list, he shall maintain his place on said list while such leave is in force unless pursuant to the provisions of section 145 hereof the list shall expire or be cancelled during the period said leave is in force. If the name of such person on military leave during time of peace or war is reached for permanent appointment to a position from a list of civil service eligibles prior to the date of expiration or cancellation of such list as provided in section 145 hereof, he shall be appointed to such position at the end of the service for which he was granted such leave, provided that no such person shall be appointed to an entrance position in the uniformed ranks of the police and fire departments under this provision who is more than thirty-five (35) years of age unless the name of such person was reached for appointment to such position before such person reached age thirty-five (35).

Officers, employees, or eligibles entering or being inducted into any service for which military leave may be granted under the provisions of this section shall, prior thereto, file with the civil service commission a copy of the orders requiring such service.

The civil service commission shall adopt rules to govern the administration of military leaves as herein provided and to govern lay-offs occasioned by the return of officers, employees or eligibles who have been granted military leaves as provided in this section.

Military leaves granted to officers, employees, or eligibles for service on ships operated by or for the United States government shall be retroactive to December 7, 1941.

The civil service commission, by rule and subject to the approval of the board of supervisors by ordinance, shall provide for leaves of ab-

sence due to illness or disability, which leave or leaves may be cumulative, if not used as authorized, provided that the accumulated unused period of sick leave shall not exceed six months, regardless of length of service, and provided further that violation or abuse of the provisions of said rule and ordinance by any officer or employee shall be deemed an act of insubordination and inattention to duties. *Ratified by the Legislature,* January 11, 1943.

Suspension and Dismissal for Cause

SECTION 154. No person employed under the civil service provisions of this charter, exclusive of members of the police and fire departments as provided under section 155, hereof, in a position defined by the commission as "permanent" shall be removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defence. Pending such hearing, the appointing officer may suspend the person so accused; but such suspension shall not be valid for more than thirty days, unless hearing upon the charge shall be delayed beyond such time by the act of the accused person. When charges are made, the appointing officer shall, in writing, notify the person accused of the time and place when the charges will be heard, by mailing such statement to his last known address. The appointing officer shall publicly hear and determine the charges, and may exonerate, suspend or dismiss the accused. The civil service commission shall immediately be notified of the charges when made, of the hearing, and of the finding thereon. The finding of the appointing officer shall be final, unless within thirty days therefrom the dismissed employee appeals to the civil service commission. The appeal and all proceedings shall be in writing and shall briefly state the grounds therefor. The civil service commission shall examine into the case and may require the appointing officer to furnish a record of the hearing and may require in writing any additional evidence it deems material, and may, thereupon, make such decision as it deems just. The order or decision of the commission upon such appeal shall be final and shall forthwith be enforced by the appointing officer. If the civil service commission shall reverse or alter the finding of the appointing officer it may, in its discretion, order that the employee affected be paid salary from the time of his discharge or suspension.

The civil service commission may hear and determine any charge filed by a citizen or by the authorized agents of the commission when the appointing officer neglects or refuses to act. Removal or discharge may be made for any of the following causes: incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, inattention to duties, or engaging in prohibited political activities.

Nothing in this section shall limit or restrict rules adopted by the commission governing lay-offs or reduction in force.

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding thirty days; and suspension shall carry with it the loss of salary for the period of suspension.

Fire and Police Disciplinary Procedure

SECTION 155. Members of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments, shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three months, or by dismissal, after trial and hearing by the commissioners of their respective departments.

Members of either department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense. *Refer to Digest.*

Transfer of Disabled

See page 115A at back of book

SECTION 156. When a civil service employee other than a member of the police and fire department, who has served not less than three years in his position has become incapable through age, accident or other disability of performing the duties of his position, the civil service commission may, with the consent of the appointing officer, transfer him to a position within his capacities, whether or not within the class for which he qualified for appointment; but such position shall be one having a lesser compensation than the one from which he may be transferred, and his compensation shall not thereafter be increased.

Prohibition of Political Activity

SECTION 157. Active participation in city and county politics, relative to the election or appointment of public officials, by civil service employees and eligibles of the city and county, is subversive of the best interests of the merit system and, therefore, persons holding positions in the classified civil service or on eligible lists for such positions shall take no active part in such political campaigns, or in soliciting votes, or in levying, contributing or soliciting funds or support, in each case for the purpose of favoring or hindering the appointment or election of candidates for city and county offices. Violation of the provisions of this section shall be deemed an act of insubordination and considered good cause for suspension or dismissal from position or removal from eligible list.

PENSIONS AND RETIREMENT

Retirement System for Officers and Employees

SECTION 158. In order to continue in force, with modifications as are set forth in this charter, provisions already existing for retirement and

death benefits for officers and employees of the city and county, the San Francisco City and County Employees' Retirement System, hereinafter referred to as the retirement system or the system, is hereby created. Elective officers and members of boards and commissions shall not be eligible to the benefits of said retirement system. Officers who are made appointive by this charter, as well as officers and employees of offices heretofore not under the retirement system and who are brought under the said system by this charter, who shall have attained the age of at least seventy years on the date said charter becomes effective, shall not become members of the retirement system. Such officers and employees who shall not have attained the age of seventy years on such date shall become members of said retirement system on the date this charter becomes effective and any benefits granted on account of service excluding service rendered as lawful members of the retirement system, rendered by said officers and employees to the city and county prior to such date shall be provided by contributions of the city and county.

Ordinance No. 5561 (New Series) and amendments thereto, now establishing the employees' retirement system, shall continue in force until amended or revoked by the board of supervisors as provided in this section. The board of supervisors is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of sections 158 to 172, both inclusive, of this charter; provided that the board of supervisors shall secure, through the retirement board, an actuarial report of the cost and effect of any proposed change in the benefits under the retirement system, before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change. *Refer to Digest.*

Retirement Board

SECTION 159. The retirement system shall be managed by a retirement board, which is hereby created, and which shall be the successor and have the powers and duties of the board of administration, the board of trustees of the police relief and pension fund and the board of fire pension fund commissioners. The retirement board shall consist of the president of the board of supervisors, the city attorney, a resident official of a life insurance company, and an officer of a bank to be appointed by the mayor, and three members elected from the active members, who shall not include retired persons of the retirement system, provided that the city attorney may designate, by written document filed with the said retirement board, an assistant city attorney to attend meetings of the said board and to act for him and in his place. The term of office of the five members, other than the ex officio members, shall be five years, one term expiring each year and the terms of such five members now holding office being unchanged by this section. The members of the retirement board shall serve without compensation. The board shall appoint an actuary, who shall hold office at its pleasure, and may appoint a secretary, provided that the positions of secretary and actuary may be consolidated into one position by the said board, and the board may employ a consulting actuary from time to time. The secretary or actuary shall have

the power to administer oaths and affirmations in all matters pertaining to the business of the retirement system.

The retirement board shall be the sole authority and judge, under such general ordinances as may be adopted by the supervisors, as to the conditions under which members may receive and may continue to receive benefits of any sort under the retirement system, and shall have exclusive control of the administration and investment of such fund or funds as may be established, provided that all investments shall be of the character legal for insurance companies in California.

Actuarial Tables, Rates and Valuations

SECTION 160. The mortality, service and other tables and the rates of contribution for members as recommended by the actuary and the valuations determined by him and approved by the retirement board shall be conclusive and final, and the retirement system shall be based thereon. The total amount, as determined by the actuary and approved by the board, of the contributions required during any fiscal year of the city and county under the retirement system shall be paid into the retirement system by the city and county during such year. Liabilities accruing under the retirement system because of service rendered to the city and county by persons prior to the date their respective classes become eligible for membership in the system, and administrative costs under the system, shall be met by contributions to the retirement system by the city and county, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the system, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service.

Contributions to the retirement system required of the city and county shall be charged by the controller against the general fund or the school, utility, bond or other special fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any person prior to becoming a member of the system, under a temporary fund, such as bond or county roads funds, or a fund then no longer existing, may be charged against the general fund, and provided further, that any contributions required on account of persons receiving benefits under subdivision (c) of section 165, shall be charged against the general fund.

Continuous Service

See page 118 at back of book

SECTION 161. Continuous service shall be defined by the board of supervisors, but the absence of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be

absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

Any member of the retirement system who is absent after September 14, 1940, from the service of the city and county, by reason of service in the armed forces of the United States, or the State of California or service on ships operated by or for the United States government, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in the line of duty with said armed forces or on said ships when such disability extends beyond such period, or any service connected with the war effort for which leaves of absence shall be authorized pursuant to section 153 of the charter, or any such member who is absent after September 14, 1940, from the service of the city and county, by reason of an order of the government of the United States or the State of California, or by lawful order of any of the departments or officers of said governments, may elect within four months after the effective date hereof or within four months after the beginning of such absence, to contribute to said retirement system while serving in said forces or on said ships, and at times and in a manner to be fixed by the retirement board, amounts equal to the contributions which he would have made from the beginning of said absence, or from the date of said election, had he remained on duty in the position he occupied and at the compensation being earned by him immediately prior to the beginning of said absence. The city and county shall contribute to the retirement system on account of any member who exercises affirmatively the election provided herein, in the same manner and amounts as if said member were not absent in said service. If the member's base pay in said service shall be less than one hundred dollars per month, city and county, in lieu of said member, shall contribute also said amount which the member otherwise would have been required to contribute under said election, and said contributions shall be administered as if made by said member.

It is the purpose of the paragraph next preceding, to place a member who is absent from the service of the city and county by reason of service as set forth in paragraph next preceding, and who contributes or for whom contributions are made under the election herein provided, in the same status under the retirement system, as that which he would have occupied had he remained on duty in the position he occupied immediately prior to the beginning of said absence and charter and ordinance provisions governing the retirement system, shall apply to said member with like effect as if he were not absent. If, however, a member who exercises affirmatively the election provided herein, shall default in any of the contributions due to the retirement system under said election, and if said contributions are not made for him, then he shall be considered absent from service during the period covered by said defaulted contributions, the same as if he had not exercised affirmatively said election, and he shall not receive credit as service for the city and county, for the period covered by said defaulted contributions; but the absence during said period of default shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance, as provided under the retirement system.

Any member of the retirement system who is absent from the service of the city and county by reason of service set forth in the second paragraph of this section, and who does not affirmatively exercise election herein provided, shall not receive credit as service for the city and county, for the period of such absence, but the absence shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance as provided under the retirement system. *Ratified by the Legislature,* January 11, 1943.

Definition, Members of Fire and Police Departments

SECTION 162. For the purposes of the retirement system, any officer or employee of the police or the fire departments whose employment therein began prior to January 1, 1900, or whose employment therein began on or shall begin after that date and was or shall be subject to a charter maximum age at the time of employment of not over thirty-five years, shall be considered to be a member of the police department or the fire department, respectively. Any fire or police service outside the limits of the city and county performed by a member of the retirement system and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

Pensions of Retired Persons

SECTION 163. No person retired for service or disability and in receipt of a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Should any retired person, except persons retired for service prior to January 8, 1932, and persons retired because of disability incurred in the performance of duty, engage in a gainful occupation prior to attaining the age of sixty-two, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the compensation on the basis of which his pension or retirement allowance was determined. *Refer to Digest.*

Contributions to Retirement Fund

SECTION 164. The city and county shall contribute jointly with the members of the retirement system to meet the liabilities accruing under the system because of service rendered to the city and county by persons after becoming members of the system. Members of the system shall contribute not to exceed ten per cent of their salaries or wages, provided that members may, at their option, elect to contribute

at rates in addition to those fixed as normal by the retirement board. The city and county shall contribute an amount equal to normal contributions of members as provided for in the preceding sentence, but the city and county shall not contribute any amount because of additional contributions by members.

Miscellaneous Officers and Employees

SECTION 165. Officers and employees of the city and county, except members of the police and the fire departments, shall become members of the retirement system subject only to the following provisions, in addition to the provisions contained in sections 158 to 164, of this charter, both inclusive:

(a) The system shall be applied to such offices, departments, bureaus, or classes of officers or employees of the city and county, including teachers in the San Francisco school department, as the supervisors shall determine; provided, however, that the contributions to be made by said teachers and the benefits to be received by said teachers under said retirement system shall be based upon the proportion of salaries of said teachers which have been and shall be paid out of funds contributed by the city and county, excluding therefrom the portion of such salaries which have been or shall be paid out of funds contributed by the State of California; and in determining such proportion it shall be taken to be the same proportion which the whole amount of money contributed by the city and county to the common school fund in any fiscal year bears to the whole amount of money contributed to such fund in such year by the state and by the city and county; and provided, further, that nothing herein contained shall be construed to deprive any teacher of the right to receive benefits under any pension or retirement system now or hereafter established by the State of California.

(b) No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years and completed ten years of continuous service, but retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

(c) All persons who were retired prior to October 1, 1925, from service as teachers in the public schools of San Francisco, under the provisions of the law of 1913, establishing the California Public School Teachers' Retirement Salary Fund, shall be entitled to and shall receive retirement allowances, to be calculated on the same basis as that established for determining the retirement allowances provided for members of the said retirement system.

Pacific Gas & Electric Company Employees

SECTION 165.1. The board of supervisors shall have the power to

provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said city and county and the Pacific Gas & Electric Company, and because of their employment by said company at the effective date of said lease, or other temporary arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said city and county upon purchase or other permanent acquisition of the properties of said company, essentially the same benefits on account of service rendered as employees of said city and county, as they would have received if they had been members throughout said service of the San Francisco City and County Employees' Retirement System on the same basis as other employees of said city and county, except members of fire or police departments. *Ratified by the Legislature*, January 21, 1941.

Present Police Department Members

SECTION 166. Persons who are members of the police department on the 8th day of January, 1932, shall become members of the retirement system on that date, subject to the following provisions in addition to the provisions contained in sections 158 to 163, both inclusive, of this charter:

(a) Any member of the department who has arrived or shall arrive at the age of sixty-two years, and who has completed thirty years of continuous service as an active member of the department next preceding his retirement, may retire from service at his option, provided that retirement shall be compulsory at the age of seventy years. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half of the amount of the monthly salary attached to the rank held by him three years prior to the date of his retirement, hereinafter referred to in this section and section 167 as a "pension."

Before the first payment of the pension is made, such retired member may elect to receive the actuarial equivalent of his pension, partly in a pension to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits.

(b) Any member of the department who shall become physically disabled by reason of any bodily injury received in the performance of his duty, may be retired upon a monthly pension, as defined in subdivision (a), of this section, payable throughout his life. In case his disability shall cease, his pension shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

(c) The family of any member of the department who may be killed

or injured while in the performance of his duties, and who shall have died within three (3) years from the date of such injury as a result of such injury, shall receive the following benefits and the receipt by such member of a pension under this section during his lifetime shall not bar said family from such benefits:

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, such widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided, however, that should said widow die, leaving a child or children under the age of sixteen years, said pension shall continue to such child or such children collectively until the youngest child arrives at the age of sixteen years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of sixteen years, such child or children collectively shall receive a monthly pension equal to one-half of the salary attached to the rank held by their father at the time of his said injury until the youngest attains the age of sixteen years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents depending solely upon him for support, such parents, so depending, shall collectively receive a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury during such time as the retirement board may unanimously determine its necessity.

(d) A sum equal to the contributions, with interest, made by persons who become members of the retirement system under this section to any other pension fund shall be paid by the city and county to the retirement system. Each member of the department shall contribute two dollars ($2) per month to the retirement system to be applied on the cost of the benefits at death and retirement provided under this section. Should a member be separated from city service through any cause other than death or retirement, then such contributions with interest shall be refunded to him under such conditions as may be fixed by the board of supervisors for the refund of contributions of other members of the retirement system.

(e) When any member of the department shall die from natural causes and before retirement, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

(f) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which, together with the members' contributions provided for in subdivision (d) of this section, shall be equal to the liabilities accruing under the retirement system because of the service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county, together with the members' contributions, was not sufficient to meet such liability, then the city and county

shall make such additional contribution as may be necessary to make up the deficit.

(g) No benefits shall be provided under the retirement system for, nor shall any contribution be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section.

That portion of any pension payable because of the death or retirement of any of such persons which is provided by contributions of the city and county shall be reduced, in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the workmen's compensation insurance and safety law of the State of California.

(h) Persons who were members of the police department on the 8th day of January, 1932, shall have the option, to be exercised in writing on or before the 1st day of January, 1936, of becoming members of the retirement system under the provisions of section 168, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then on and after the first day of the month next following such affirmative action, referred to hereinafter in this subdivision (h) as "effective date," they shall not receive any benefit or make any contribution under this section, but on and after said effective date shall be members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to said effective date, by such members' contributions made prior to such effective date, with interest, and by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age sixty-two for each year of service rendered as a member of the retirement system. *Ratified by the Legislature*, May 17, 1935. *Refer to Digest.*

Present Retired Members and Present Beneficiaries, Police Department

SECTION 167. Any member of the police department who shall have been retired and shall be receiving a pension on the 8th day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension, subject to the provisions of section 166 governing the payment of pensions. Such pension shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children, or parents.

Future Members of Police Department

SECTION 168. Persons who become members of the police department after the 8th day of January, 1932, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 158 to 164, both inclusive, of this charter: No such member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years, and completed twenty-five years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service, the benefits of retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

Present Members of Fire Department

SECTION 169. Persons who are members of the fire department on the 8th day of January, 1932, shall become members of the retirement system on that date, subject only to the following provisions, in addition to the provisions contained in sections 158 to 163 both inclusive, of this charter:

(a) Any member of the fire department who shall have completed twenty-five years of continuous service as a member of the fire department next preceding the date of his retirement, or any member of the fire department who shall have reached the age of fifty-five years and shall have completed twenty years of continuous service as a member of the fire department next preceding the date of his retirement, may retire from service at his option. Any member of the fire department who shall become physically disabled by reason of any bodily injury received in the performance of his duty may be retired from service on satisfactory proof thereof. The retirement board, by unanimous vote, may retire from service any aged, disabled or infirm member of the fire department who has arrived at the age of sixty years and who has completed twenty years of continuous service as a member of the department next preceding such age, who may be ascertained to be, by reason of such age, infirmity or other disability, unfit for the performance of his duties. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half the amount of the salary attached to the rank held by him three years prior to the date of his retirement hereinafter referred to as "pension" in this and the following sections; provided that where such retirement is based on disability alone, in case the disability of such member shall cease, his pension shall cease, and he shall be restored to service in the rank he occupied at the time of his retirement. Should any said retired member die leaving a widow, who shall have been married to the decedent at least one year prior to the date of his retirement, such widow shall, as long as she may live and remain unmarried, be paid said pension; provided further, that should said

widow die leaving a child or children under the age of sixteen years, said pension shall continue to be paid such child or such children collectively until the youngest child arrives at the age of sixteen years; and provided, further, that should said retired member die leaving no widow but leaving an orphan child or children under the age of sixteen years, such child or children collectively shall receive said pension until the youngest child attains the age of sixteen years.

(b) The family of any member of the fire department who shall die as a result of any injury received during the performance of his duty, or from sickness clearly, unmistakably and directly caused by and resulting from the discharge of such duty, or while eligible to a pension on account of years of service in the department, or who has served twenty consecutive years in the department and attained the age of fifty-five years, shall receive the following benefits.

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, his widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury provided, however, that should said widow die, leaving a child or children under the age of sixteen years, said pension shall continue to such child or children collectively until the youngest child arrives at the age of sixteen years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of sixteen years, such child or such children collectively shall receive said pension until the youngest child attains the age of sixteen years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents dependent solely upon him for support, such parents so depending shall collectively receive said pension during such time as the retirement board may unanimously determine its necessity.

(c) When any member of the department shall die from natural causes and before retirement, and when no pension is payable to his widow or children, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

(d) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which shall be equal to the liabilities accruing under the retirement system because of service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county was not sufficient to meet such liability, then the city and county shall make such additional contribution as may be necessary to make up the deficit.

(e) No benefits shall be provided under the retirement system for, nor shall any contributions be required of, persons who become members of the retirement system under this section, in addition to the benefits

specifically provided and contributions specifically required in such section. Any pension payable because of the death or retirement of any of such persons shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the workmen's compensation insurance and safety law of the State of California.

(f) Persons who are members of the fire department on the 8th day of January, 1932, shall have the option, to be exercised in writing on or before the 1st day of July, 1932, of becoming members of the retirement system under the provisions of section 171, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then they shall not receive any benefit under this section, but shall become members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to the 8th day of January, 1932, by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age fifty-five for each year of service rendered as a member of the retirement system. *Refer to Digest.*

Present Retired Members and Present Beneficiaries, Fire Department

SECTION 170. Any member of the fire department who shall have been retired on or after January 21, 1925, or prior to January 1, 1900, and shall be receiving a pension on the 8th day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension subject to the provisions of section 169 governing the payment of pensions to retired members, widows, children and parents. Any member of the fire department who shall have been retired on or after the 1st day of January, 1900, and prior to the 21st day of January, 1925, and shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension throughout his life, subject to the provisions of section 169 governing the payment of pensions granted because of disability incurred in the performance of duty, including the payment of such pensions to widows, children and parents of deceased members who had been retired because of such disability. Such pensions shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children, or parents.

The supervisors shall appropriate to the retirement system not to exceed the sum of five thousand dollars ($5,000) a year for the relief of aged, indigent and infirm exempt firemen who served in the Volunteer Fire Department between the years 1850 and 1866.

Future Members of Fire Department

SECTION 171. Persons who become members of the fire department after the 8th day of January, 1932, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 158 to 164, both inclusive, of this charter: No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of fifty-five years and completed twenty years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below fifty-five, in accordance with the tables recommended by the actuary and approved by said retirement board.

Compensation Insurance Payments

SECTION 172. The benefit provisions of the workmen's compensation insurance and safety law of the State of California, as they affect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be re-insured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 35 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special police officer shall receive the benefits of such compensation law from any other source. *Ratified by the Legislature,* April 14, 1937.

HEALTH SERVICE SYSTEM

SECTION 172.1:

Subdivision 1. A health service system for municipal employees is hereby established. Said system shall be administered by a board to be known as the health service board. The members of the system shall consist of all employees of the city and county who are members of the

retirement system and all teachers and employees of the board of education who are members of said retirement system. Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayer in the practice of religion shall be exempted from the system upon filing annually with the health service board an affidavit stating such adherence and dependence and disclaiming any benefits under the system. The board shall have the power to exempt any person whose annual compensation exceeds forty-five hundred dollars ($4,500) and any person who has otherwise provided for adequate medical care.

Subdivision 2. The health service board shall consist of nine members elected by the members of the system. The first members of the board shall classify themselves by lot so that three shall serve for one year, three for two years and three for three years from and after May 15, 1937. Thereafter the term of office shall be three years. The president of the board shall act as the appointing officer under the civil service provisions of this charter for the appointing, disciplining and removal of such employees as may be authorized by the board. Each member of the board shall give bond in the sum of ten thousand dollars ($10,000), the premium on which shall be paid out of the funds of the system. Vacancies shall be filled for the unexpired term by a majority vote of the remaining members of the board. Members of the board shall be nominated by a written nomination of twenty members filed with the registrar of voters not earlier than April 1st nor later than April 15th of each year. The registrar of voters shall prepare ballots and shall furnish the same to all members of the system between April 15th and April 25th and shall receive the ballots between April 25th and May 7th and canvass and certify the result on May 8th. The registrar of voters shall have power to make such regulations respecting the form, distribution and canvassing of the ballots as may be necessary to secure secrecy of the ballots and prevent fraud. The persons equal in number to the number to be elected who receive the greatest number of votes shall be declared elected. Not more than one employee of any one department or office may be a member of the board. For the purpose of the first election, all employees eligible for membership in the system shall be deemed members.

Subdivision 3. The board shall have power:

(a) By a two-thirds vote of the entire membership of the board to adopt a plan or plans for rendering medical care to members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs, provided:

1. No member of the system shall be required to accept the services or medical supplies of any physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist or hospital selected by the board, but, subject to rules and regulations of the board, every member shall have the right to select, of his own choice, any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care as herein defined, who or which will render the required services pursuant to said rules and regulations, and the board shall make pro-

vision for the exercise of such notice; and is hereby expressly prohibited from entering into any exclusive contract for the rendering of said services;

2. Any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care shall have the right to furnish such services or medical supplies at uniform rates of compensation to be fixed by the board;

3. Such rates of compensation and any and all proposed contracts respecting the rendering of such services shall be reviewed by the retirement board of the city and county and shall not become effective unless and until approved by the retirement board. The retirement board may approve, refer to the health service board for further consideration, or disapprove any matter or proposal which is within its jurisdiction under the provisions of this section, and it shall act within sixty (60) days after any matter has been submitted to it, and failure of the retirement board to approve, refer or disapprove the same within said period shall constitute an approval.

4. In January of each year, at public hearings, the health service board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable. Any such determination or revision shall be subject to review by the retirement board upon an appeal taken within thirty (30) days thereafter by a written petition filed with the retirement board and signed by not less than fifteen per cent (15%) of the members of the system or by not less than fifteen per cent (15%) of those of any one of the following groups who have contracted to render services to the members of the system: Physicians and surgeons; persons licensed to treat human diseases without the use of drugs; dentists; nurses; pharmacists; hospitals; other agencies of medical care. A copy of such petition shall also be filed with the health service board at the same time. The retirement board may approve or disapprove such determination or revision of the health service board by a majority of its members or refer the same to the health service board for further consideration. Failure of the retirement board to approve, refer or disapprove such determination or revision within sixty (60) days after filing the petition shall constitute an approval.

5. The health service board shall receive, consider and, within sixty (60) days after receipt, act upon any matter pertaining to the administration, operation or conduct of the health service system submitted to it in writing by any member of the system or any person who has contracted to render medical care to the members of the system.

6. The said retirement board is hereby authorized and empowered and it is hereby made its duty to exercise the powers and to perform the duties prescribed for it by this section.

(b) To put said plans into effect and to conduct and administer the same and, for all or any of said purposes, to contract therefor and use the funds of the system.

(c) To make rules and regulations for the transactions of its business, the granting of exemptions and the admission to the system of persons who are hereby made members thereof and such other officers and em-

ployees as may voluntarily become members of the system with the approval of the board.

(d) To appoint a medical director and such other employees as may be necessary. The compensation of the medical director shall be fixed by the board and he shall hold office at its pleasure. The employees, other than the medical director, shall be subject to the civil service provisions of the charter, provided that all employees who are actually employed or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date or such military leave of absence shall be continued in their respective positions and classifications as if appointed thereto after examination and certification from a civil service list of eligibles and shall thereafter be governed by and be subject to the civil service provisions of this charter. Prior to July 1st in each year the health service board shall fix the compensation of its employees, which compensation shall be the same as the rates of compensation fixed by the board of supervisors, under the provisions of section 151 of this charter, for similar classifications and services in other city and county departments. The health service board shall submit to the board of supervisors prior to July 1st of each year a list of the positions established under the health service board, and such positions and the compensation therefor shall be enumerated in the annual salary ordinance. Payrolls covering such positions shall be governed by section 150 of the charter.

(e) To make provision for the participation in the benefits of the system by the dependents of members, retired municipal employees and temporary municipal employees, provided that such participation shall be without cost to the city and county.

Subdivision 4. The board shall determine and certify to the controller the amount to be paid monthly by the members of the system to a fund for the purposes of the system hereby created. The controller shall deduct said sums from the compensation of the members and shall deposit the same with the treasurer of the city and county to the credit and for the use of the system. Such deductions shall not be deemed to be a reduction of compensation under any provision of this charter. The board shall have control of the administration and investment of the funds, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the controller and the controller shall have and exercise the accounting and auditing powers over the funds of the system which are vested in him by this charter with respect to all other municipal boards, officers and commissions.

Subdivision 5. The term "medical care" shall include the services of physicians, surgeons, nurses, persons licensed to treat human diseases without the use of drugs, hospitalization, medicines and appliances, and dental, optical and other medical treatments and services.

All acts performed and services rendered under the provisions of this section shall be performed in accordance with the provisions as to professional conduct prescribed by the statutes of the State of California regulating such professional conduct and services.

Medical care, as defined in this section, shall not be furnished or sup-

plied to any member of the system by or in any of the public health and hospital facilities of the city and county, except that emergency medical and hospital care may be rendered to any member of the system in the usual course of emergency health service.

Subdivision 6. Members of the system shall have and possess no claim or recourse against any of the funds of the municipality by virtue of the adoption or operation of any plan for rendering medical care, indemnifying costs of said care or carrying insurance against such costs, but the claim and recourse of any such member shall be limited solely to the funds of the system. All expenses of the system shall be borne exclusively by the funds of the system and the city and county shall not appropriate or contribute funds in any manner for the purposes of the system hereby established and provided. *Ratified by the Legislature,* January 11, 1943. *Refer to Digest.*

ELECTIONS

Registrar of Voters

SECTION 173. The conduct, management and control of the registration of voters, and of the holding of elections, and of all matters pertaining to elections in the city and county shall be vested exclusively in the registrar of voters. Except as in this charter otherwise provided, he shall succeed to the powers and duties of the board of election commissioners at twelve o'clock noon on the 8th day of January, 1932, at which time the terms of the members of said board shall terminate, and such board as theretofore existing shall be abolished. He shall establish precincts in the city and county as provided by law. The regular and temporary forces under the registrar, and the temporary forces, shall be appointed by him subject to the civil service provisions of this charter.

Municipal Elections

SECTION 174. On Tuesday after the first Monday in November in 1931 and every second year thereafter, there shall be held in the city and county an election to be known as the general municipal election, at which the electors of the city and county shall choose such officers as are required by this charter to be elected at that time. Special municipal elections shall be called by the registrar when required by this charter on the filing of appropriate initiative, referendum or recall petitions, as provided by this charter, and may be called by the supervisors for bond issues, declarations of policy, or for the voting on candidates for city and county offices not subject to election at general municipal elections.

All provisions of the general laws of this state, including penal laws, respecting the registration of voters, initiative, referendum and recall petitions, elections, canvass of returns and all matters pertinent to any and all of these, shall be applicable to the city and county, except as otherwise provided by this charter or by ordinance adopted by the board of supervisors as authorized by this charter relative to any rights, powers or duties of the city and county or its officers. When not prohibited by general law, the supervisors by ordinance may provide that the publication of precincts and polling places shall be by posting only. *Refer to Digest.*

Section 175. The name of a candidate for an elective office shall be printed upon the ballot when a declaration of candidacy and certificates of not less than ten nor more than twenty sponsors shall have been filed on his behalf, and when the nomination shall be made in the following manner: The candidate, not more than fifty days before the municipal election in November, shall file with the registrar a declaration of his candidacy, in the form prescribed by the registrar for all candidates, including statements of his qualifications in not to exceed one hundred words, subscribed by him before the registrar. The registrar shall forthwith certify to the said subscription and its date and retain and file the declaration. The candidate shall pay to the registrar at the time of filing his declaration of candidacy the sum of thirty dollars ($30). After said declaration shall have been signed, certified and filed, and not later than thirty-five days before said election in November, not less than ten nor more than twenty sponsors for the said candidate, who are electors of the city and county qualified to vote at the said municipal election, shall appear before the registrar and shall certify under oath to the qualifications of the said candidate on a form of certificate prescribed by the registrar for all sponsors of all candidates.

In the event the registrar shall refuse to file such declaration of candidacy or certificate of a sponsor thereof, he shall forthwith designate in writing on the declaration or certificate the defect thereof, or other reason for refusing to file the same, and shall return the same to the party tendering it. No defect in any declaration or certificate presented to the registrar shall prevent the filing of another declaration or certificate within the period allowed for presenting the declaration or certificate. The name of every candidate who has been duly and regularly nominated shall be placed on the ballot under the title of the office for which he is a candidate, provided that a candidate whose nomination has been completed, may, not less than thirty days before a municipal election, withdraw as a candidate by filing with the registrar his withdrawal, naming the office; such withdrawal must be signed and sworn to by the person withdrawing.

The name of every candidate who has been nominated for office as hereinbefore provided shall be placed on the ballot in alphabetical order in accordance with the initial letter of his surname, under the heading of the office for which said candidate has been nominated in the following manner: The name of the candidate highest on the alphabetical list of candidates for any particular office shall be printed first on the ballot under the proper heading for said office in the lowest numbered assembly district in the city and county. Thereafter, in each succeeding assembly district, the name of the candidate appearing first for said office in the last preceding district shall be placed last and the order of the names of the other candidates for said office shall remain unchanged.

In the event that the number of candidates in any group shall exceed the number of assembly districts in the city and county then the total number of candidates in such group shall be divided by the number of assembly districts and the quotient of said division, if an integral number, or, if it be a fractional number, then the next highest integral number, shall be

the number of candidates to be taken from the beginning of the list of said candidates and placed at the end of said list of candidates in each succeeding assembly district.

Immediately under the name of each candidate and not separated therefrom by any line may appear, at the option of the candidate, one of the following designations:

(a) Words designating the city, county, district or state office which the candidate then holds.

(b) If the candidate be a candidate for the same office which he then holds, and only in that event, the word "incumbent."

(c) The word designating the profession, vocation or occupation of the candidate. The profession, vocation or occupation so designated shall be the same as appears in the affidavit of registration of the candidate.

In all cases words so used shall be printed in eight-point roman boldface capitals and lower-case type.

No incumbent shall have any further preference in the location of his name on said ballot unless the same is permitted by this section.

The provisions of this section shall not be applicable to candidates for the office of the United States senator, representatives in Congress, state officials, members of the state senate or assembly, delegates to be selected at any presidential or state primary election, judges of the superior court, or judges of the municipal court.

The registrar shall preserve in his office for a period of four years all candidates' declarations and all sponsors' certificates filed in accordance with this section. *Ratified by the Legislature,* January 11, 1943.

Material to Be Mailed to Voters

Section 176. The registrar shall, before each municipal election, cause to be printed in pamphlet form and mailed to each registered voter with the sample ballot, a copy of all declarations and statements of qualifications of candidates received by him, to be followed by the names and addresses and occupations of all sponsors of all officers to be voted for in said city and county.

The registrar shall cause ballots to be printed identical with the ballot to be used in each assembly district at the election and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail to each voter entitled to vote at such election a copy of the ballot to be used in his district, so that all said sample ballots shall have been mailed at least eight days before said election. The rotation of names of candidates on ballots shall be as provided by general law.

Precinct Boards of Election

Section 177. The registrar shall, at each municipal or special election, prepare lists for and appoint for each election precinct a precinct board of election officers to hold and conduct such election at the precinct for which said board is appointed. Such board shall consist of one inspector, one judge and two clerks, who shall perform all the duties required by law at such polling place, except as in this charter provided.

When voting machines are used one inspector and two judges shall be appointed. The general law as to the appointment of election officers shall apply when not otherwise provided herein. The registrar is authorized to withhold the pay of any election officer who neglects, disregards or violates the election laws.

Determining Result of Election—Failure of Persons Elected to Qualify

SECTION 178. The canvass of voters, canvass of returns, declaration of election and certificate of election shall be made as provided by general law. If a person elected fails to qualify, the office shall be filled as in this charter provided for a vacancy in such office.

Initiative, Referendum and Recall

SECTION 179. The registered voters shall have power to propose by petition, and to adopt or to reject at the polls, any ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact, or any legislative act which is within the power conferred upon any other board, commission or officer to adopt, or any amendment to the charter. Such ordinance, act, charter amendment or other measure may be so proposed by filing with the registrar a petition setting forth said measure in full, signed by registered voters of the city and county as many in number as the percentages hereinafter required of the entire vote for all candidates for the office of mayor cast at the last preceding regular municipal election.

Any declaration of policy may be submitted to the electors in the manner provided for the submission of ordinances; and when approved by a majority of the qualified electors voting on said declaration, it shall thereupon be the duty of the board of supervisors to enact an ordinance or ordinances to carry such policies or principles into effect, subject to the referendum provisions of this charter.

Any ordinance which the supervisors are empowered to pass may be submitted to the electors by a majority of the board at a general election or at a special election called for the purpose, said election to be held not less than thirty days from the date of the call. Any such ordinance may be proposed by one-third of the supervisors or by the mayor, and when so proposed shall be submitted to the electors at the next succeeding general election. No ordinance passed by the supervisors granting any public utility franchise or privilege, shall go into effect until the expiration of sixty days from the date it becomes final. At the end of such sixty days such ordinance shall be in force and effect, unless within such period there shall be filed with the registrar a petition signed by registered voters equal in number to five per cent of the entire vote cast for mayor at the last preceding regular municipal election, requesting that such ordinance be submitted to the electors. In case such petition is filed, such ordinance shall not go into effect until approved by a majority of the voters voting thereon at a general or special election.

If, before the time any other ordinance involving legislative matters becomes effective, there shall be filed with the board of supervisors a petition signed by qualified electors of the city and county equal in num-

ber to at least ten per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance the same shall be suspended from going into operation, and it shall be the duty of the board of supervisors to reconsider such ordinance, and if the same be not entirely repealed, said board shall submit the ordinance to the vote of said electors either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless and until a majority of the qualified electors voting thereon shall vote in favor thereof. The provisions of sections 180 and 181 of the charter shall apply to and govern the verification and certification of such petition.

Annual budget and appropriation ordinances, supplemental appropriation ordinances, the annual salary ordinance, or ordinances amending the same, the ordinances levying taxes, any ordinance appropriating money from the emergency reserve fund, ordinances authorizing the city attorney to compromise litigation, and ordinances necessary to enable the mayor to carry out any of the powers vested in him in the case of a public emergency as defined in section 25 of the charter, ordinances enacted pursuant to section 219 of the charter, as well as ordinances relative to purely administrative matters, shall not be subject to referendum.

Any elective official, the chief administrative officer, the controller or any member of the board of education or the public utilities commission may be recalled by the electors. The procedure to effect such recall shall be as follows: A petition demanding the recall from office of the person sought to be recalled shall be filed with the registrar. Said petition shall contain a statement of the grounds on which the recall is sought. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held thereunder. No recall petition shall be filed against any officer until he has held his office for at least six months. *Ratified by the Legislature,* May 17, 1935.

Petitions

Section 180. The filing, verification and certification of initiative, referendum and recall petitions shall be in accordance with general law, and rules and regulations of the registrar of voters relative to details not covered by general law, except as otherwise provided by this charter. Any signer to a petition may withdraw his name from the same by filing with the registrar of voters a verified revocation of his signature before the filing of the petition. No signature can be revoked after the petition has been filed. Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains the signatures of the requisite number of registered voters, and after an election based thereon, the sufficiency of such petition shall not be questioned.

If any signature be questioned, the registrar shall mail notice to such purported signer, stating that his or her name is attached to such petition and citing him or her to appear before said registrar forthwith, naming the time and place. Said citation shall enclose a blank affidavit, which may be used to deny that the affiant signed such petition. If such

person does not desire to attend in person, he may swear to such affidavit of denial before any officer authorized to take oaths, and mail the same to the registrar. If he does not so attend and deny such signature in person or by making and mailing such affidavit of denial before the time when the registrar must, under general law, make final determination, the signature to such petition must be treated as genuine. The registrar shall keep a list of the names of all purported signers who appear before him and deny their signature under oath, and also file and keep such affidavits for at least one year.

Special Election Fund

SECTION 181. The board of supervisors, in the first annual budget to be hereafter adopted by said board, shall appropriate not less than fifty thousand dollars to be known as the special election fund, to be used exclusively for defraying the cost of verifying petitions and other expenses of all special elections initiated by petition of the electorate, including recall elections. In the event of the expenditure of any of said fund, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said special election fund.

Time of Election

SECTION 182. If the petition accompanying a proposed initiative measure, declaration of policy, or recall be signed by registered voters equal in number to ten per cent of the entire vote cast for mayor at the last preceding general municipal election and contains a request that said measure, policy or recall be submitted forthwith to a vote of the electorate at a special election, then the registrar shall forthwith call a special election, which shall be held at a date not less than thirty nor more than forty days from the date of calling the same, at which said measure or policy, without alteration, or said recall shall be submitted to a vote of the electorate, unless within sixty days of a general or primary election, in which event it shall be submitted at such general or primary election.

If the petition accompanying a proposed initiative measure or declaration of policy be signed by registered voters equal in number to five per cent but less than ten per cent of the said entire vote, then such measure or measures, without alteration, shall be submitted by the registrar to a vote of the electorate at the next general state or municipal election that shall occur at any time after thirty days from the date of the certificate of sufficiency attached to the petition accompanying such measure unless the board of supervisors, by ordinance, direct that the measure or policy be voted on at a special election prior thereto.

Measures and Arguments to Be Mailed to Voters

SECTION 183. Whenever any measure is required by this charter to be submitted to the voters of the city and county at any election, the registrar shall cause the measure or policy to be printed on sheets measuring six by nine inches, and shall mail the same with a sample ballot

to each voter, at least five days prior to the election. This printed copy may be attached to any other matter required to be printed and mailed.

With or upon the sample ballot mailed to each voter prior to a recall election, there shall be transmitted the reasons for demanding the recall of the officer as set forth in the recall petition, printed in not more than three hundred words, and with or upon the same ballot the printed statement of the officer in not more than three hundred words justifying his course in office.

If the proposition be submitted to the registered voters upon an initiative, referendum or recall petition, the persons filing said petition shall have the right to present to the registrar at any time twenty-five days prior to said election, copies of printed arguments favoring their petition, and the registrar shall not accept arguments favoring said petition without the approval of those filing said petition. If said proposition be submitted by the mayor or by the board of supervisors, or by one-third of the board of supervisors, they shall have a similar right to present copies of printed arguments. Said arguments, for or against, shall be printed and shall not exceed four pages, six by nine inches in size, for each proposition. Any person, committee or organization opposing the measure, policy, charter amendment, or recall placed before the voters may present, in like manner and of the same form and size and within the same time, printed arguments opposing said proposition. Copies of said arguments shall be delivered to the registrar equal in number to five per cent in excess of the total number of registered voters. The registrar shall cause one copy of each of said arguments to be mailed with the copy of the measure or the amendment.

Form of Ballot—Majority Vote

SECTION 184. The ballots used when voting upon any proposed measure, referendum, policy, recall or confirmation shall contain a general statement thereof, followed by the words "Yes" and "No," so arranged that the voter may indicate his choice upon the ballot. If a majority of the qualified electors voting on said proposed measure, referendum, policy, recall or confirmation shall vote in favor thereof, it shall go into effect ten days after the declaration of the official count. The general statement or question provided for in this section shall be prepared by the city attorney and shall consist of not over thirty words.

If the official proposed to be removed at any recall election shall, as the result of said election, be recalled, the mayor shall appoint his successor for the unexpired term and the officer so recalled shall be ineligible to hold any city and county office for two years; should said officer be retained in his office, he shall be reimbursed out of the special election fund for his expenses in such recall election; provided that such payment shall not exceed the amount he is permitted to spend under the Purity of Elections Act now in force.

Competing and Conflicting Measures—Repeal

SECTION 185. When two or more proposed measures are of the same

general purpose, the registrar shall so declare, and shall cause the ballots to be so printed that the voter, first, may choose between any measure or none, and, secondly, may express his preference for any one. If a majority of the votes on the first question is affirmative, then the measure receiving the highest number of votes shall become law and the others fail of passage. In case two or more measures are tied for the highest vote, they shall be resubmitted at the next ensuing general election. If there is a conflict between two or more measures or between two or more charter amendments adopted at the same election, then the measure or charter amendment receiving the highest affirmative vote shall prevail.

No initiative, ordinance or measure or declaration of policy approved by the electorate under the provision of this charter shall be subject to veto, or be amended or repealed except by vote of the electorate, unless such ordinance or measure shall otherwise provide.

Substantial Compliance

SECTION 186. No informalities in conducting municipal, special, initiative, referendum or recall elections shall invalidate such elections if they have been conducted fairly and in substantial compliance with and conformity to the requirements of this charter.

SAN FRANCISCO - SAN MATEO CONSOLIDATION

Consolidation of San Mateo County

SECTION 187. In the event that all or any part of the area of the County of San Mateo shall be consolidated with the city and county in accordance with law and the constitution of the state, the provisions of sections 187 to 218, inclusive, of this charter shall become effective on the effective date of such consolidation and all other provisions of this charter in conflict with the provisions of said sections shall be thereupon and thereby superseded.

Definitions

SECTION 188. The following terms as used in sections 187 to 218, inclusive, in this charter, to-wit: "city and county", "county", "city", "governmental agency", "consolidate", and "consolidation", unless the context clearly indicates otherwise, shall have the same meanings as in that certain act of the Legislature of the State of California known as the San Francisco-San Mateo Consolidation Act of 1929, approved June 11, 1929. The term "voter" as used in said section means a qualified and registered elector who is a resident of the city, county, city and county, borough, or other territory concerned.

Continuation of Offices, Officers, Employees and Services

SECTION 189. Upon the consolidation of the county as a whole, the offices of assessor, auditor, coroner, county clerk, district attorney,

recorder, sheriff, tax collector, and treasurer of said county shall become branch offices of the corresponding respective offices of the city and county, and the incumbents thereof shall become deputies in the said respective offices of the city and county, and shall continue as such to the end of the terms for which they were respectively elected or appointed.

The departments and offices of the city and county shall establish such branch offices in the territory consolidated as shall be necessary or convenient and as directed by the board of supervisors, but with no less amount of service in the said territory than shall have been provided by the county, or any city, or governmental agency of the county just prior to the time consolidation shall become finally effective.

Any full-time incumbent appointive officer or employee of the county, or any city, or governmental agency of the county, who shall have held such office or employment continuously for one year next prior to consolidation and whose duties shall be assumed by the city and county, shall become an employee of the department or office of the city and county assuming said duties and he shall, as such employee, thereafter be subject, without examination, to the civil service provisions of this charter, if any, applying to said employment.

Retirement Rights

SECTION 190. Any policeman or fireman of the county, or any city, or governmental agency of the county, who shall become an employee of the police or fire department of the city and county, and who may participate in any pension or retirement system of the city and county, shall receive credit for his prior continuous full-time service to said county, city or governmental agency.

Municipal Court

SECTION 191. All cases pending in any justices' court, police court or court of any recorder or other judicial municipal magistrate or office of the county, or any city, or governmental agency of the county consolidated with the city and county shall ipso facto be deemed to be and be transferred to the municipal court of the city and county. Such municipal court shall hold regular sessions in such borough or boroughs as the board of supervisors may, by ordinance, direct, and at least one such borough shall be so designated.

Recording

SECTION 192. Any instrument or judgment affecting the title to or the possession of real property situated in the territory of the county which may be consolidated with the city and county must be recorded in the branch office of the recorder of the city and county located in the territory so consolidated and all records in said branch office shall for all purposes be deemed records in the office of the recorder of the city and county.

Establishment of Boroughs

SECTION 193. Any territory included in the area that has become a part of the city and county by consolidation and which at that time is not already within a borough may be organized into a borough in the manner hereinafter set forth, provided such territory contain at least 3,000 population, as determined by ordinance of the board of supervisors. Any incorporated city included in the area that has become a part of the city and county by consolidation, which was such a city on or prior to January 1, 1931, shall automatically become a borough when consolidation becomes effective.

New Boroughs, Consolidation, Change in Boundaries, and Disestablishment of Boroughs

SECTION 194. Any new borough may be established, any two or more boroughs may be consolidated, the boundaries of any borough may be enlarged or diminished, or a borough may be disestablished, provided a majority of the voters of a borough, or boroughs, and/or of the territory concerned, voting on such a proposition at an election called for the purpose, shall first have voted in favor thereof; provided, further, that no borough shall be disestablished nor the boundaries of a borough diminished, unless the same be approved by the board of supervisors by ordinance, or a majority of the voters of the city and county voting thereon at an election called for the purpose, shall first have voted in favor thereof. Such elections shall be called by the board of supervisors upon receiving the report of the borough commission hereinafter provided for, and at any time thereafter upon receiving a petition of at least twenty-five per cent of the voters of the borough or boroughs or the territory concerned. If any petition of voters requests the establishment of a new borough or any change in the boundaries of an existing borough, the supervisors, before calling an election thereunder, must set the petition for public hearing and give notice thereof by publication at least once a week for two weeks in a newspaper published in the city and county. Upon such hearing, the board of supervisors shall have power to change and determine the boundaries as set forth in any such petition. No new borough shall be established, nor shall two or more boroughs be consolidated, nor shall the boundaries of a borough be enlarged or diminished, nor shall a borough be disestablished, unless a majority of the voters of the borough, or boroughs, or the territory concerned, voting on such a proposition, shall first have voted in favor thereof.

Within thirty days after consolidation is effective, every borough council must appoint one member to a commission to be known as the borough commission. The commission shall be charged with the duty of studying the boundaries of all boroughs within the city and county and of making recommendations to the board of supervisors concerning consolidation, disestablishment, or any change in boundaries of any borough or boroughs. This report shall be submitted to the board of supervisors within two years from the time consolidation shall become effective. Upon receiving the report of the commission, the board of super-

visors shall without delay call an election or elections and submit appropriate propositions in accord with the recommendations of the commission to a vote of the voters of the territory concerned.

Upon the consolidation of two or more boroughs, all property thereof shall belong to the consolidated borough and such borough shall become responsible for all the debts and obligations of the boroughs consolidated. Upon a change of boundaries or disestablishment of a borough, the board of supervisors shall provide for the equitable adjustment and payment of any borough debts.

The board of supervisors, by ordinance, shall provide for the method and manner of calling and holding elections provided for in this section and for the canvassing of the returns thereof.

Borough Powers

Section 195. Every borough shall have and may exercise, subject to the provisions of this charter, the following powers and duties which shall be exclusive within borough limits except as otherwise provided herein:

(1) To create districts for the purpose of regulating the location, height, area, bulk, and use of buildings, lands and premises, and to exercise zoning and planning powers.

(2) To maintain public libraries and reading rooms.

(3) To maintain parks, playgrounds and other recreational facilities, and to construct and maintain buildings and works appurtenant thereto, except parks, playgrounds and recreational facilities maintained by the city and county.

(4) To construct, improve and maintain streets and the bridges, sidewalks, street signs, lighting fixtures and all other appurtenances incident thereto; except highways maintained by the state or any joint highway district and any highway or street which the board of supervisors shall declare to be a major highway to be maintained by the city and county.

(5) To construct and maintain local sewers, sewage disposal plants, storm drains, and outfalls.

(6) To collect garbage and other wastes and to dispose of the same within or without borough limits, except as the board of supervisors shall otherwise provide for such disposal. Permission to dispose of garbage and other wastes outside of borough limits shall be first obtained from the city and county or the borough having jurisdiction of the territory in which such disposal is made.

(7) To erect, maintain and repair public buildings, and improve and maintain public property within borough limits devoted exclusively to borough uses; provided a borough shall maintain at least one public building, which the borough council shall select and in which the borough council shall meet.

(8) To have and exercise the same power within limits of a borough to open, widen, narrow, or close public streets and highways, and to establish the grades thereof, as is possessed by the city and county, except no borough shall close or narrow any highway maintained by the city and county without the approval of the board of supervisors.

(9) To exercise the powers of eminent domain whenever necessary to

acquire property and easements for streets, highways, or other public purposes.

(10) To issue permits for any privilege in or on any street, within the jurisdiction of the borough, and to make regulations with regard to advertising by signs, billboards, banners, placards, posters, or pictures on any street, sidewalk, or private property, or upon any buildings, poles, or fences thereof, except within two hundred feet of any street or highway not under its jurisdiction.

(11) To issue permits for spur tracks.

(12) To establish fire limits for the regulation of building and construction of buildings.

(13) To license for purpose of regulation only such occupations as shall require regulation in the interest of public peace, health, or safety, and to prescribe the terms and conditions under which such licenses shall issue.

(14) To declare what shall constitute a nuisance and to provide for the summary abatement of the same at the expense of the person or persons creating, causing, committing or maintaining such nuisance, by suit or otherwise.

(15) To enact local police ordinances, not inconsistent with the laws of the state or ordinances of the city and county, and to make rules and regulations for the exercise of any power conferred herein on boroughs and to provide penalties for the violation thereof, provided such penalties shall not exceed the penalty limits applicable by law or under this charter to city and county ordinances; such local police ordinances to have all the force and effect within the limits of the borough of an ordinance of the city and county and as though passed and adopted by the board of supervisors.

(16) To create and define the powers and duties of all borough offices and employments, not established by this charter, necessary for the purpose of carrying out the provisions of this charter and executing the powers and duties of a borough; and to fix the compensation of all officers and employees of the borough not fixed by this charter.

(17) To call and hold borough elections whenever necessary.

(18) To levy borough taxes.

(19) To prepare and adopt an annual budget of estimated borough expenditures and to exercise control of all borough funds.

(20) To incur indebtedness for the purpose of carrying out any of the powers conferred on the borough.

(21) To create special districts for the purpose of defraying the cost of any public improvement which the borough is authorized to make, and to levy special assessments upon property materially benefited by such public improvement, and to issue bonds to represent or be secured by such assessments.

(22) To contract for such supplies, services, or labor, and to enter into such contracts as may be necessary.

(23) To employ a qualified person or persons to make an independent audit of borough funds and financial transactions of all kinds as the

borough council may direct. If an audit is not made by the city and county, then the borough council shall provide for such an audit at least once in every two years.

(24) To accept devises, bequests, legacies, donations or services to or for the use of the borough and to administer the same in accordance with the conditions thereof.

(25) To issue subpoenas for the attendance of witnesses or the production of books or documents for the purpose of producing evidence or testimony in any matter pending before the borough council.

(26) To employ legal counsel.

(27) To change the name of the borough, by ordinance, provided the ordinance making such change in name shall first be approved by a majority of the voters of the borough voting thereon.

(28) To provide, by ordinance, for civil service for borough employees under such conditions as are hereinafter provided, provided such ordinance shall first be approved by a majority of the borough voters voting thereon.

(29) To provide, by ordinance, for a system of retirement allowances for old age and disability and death benefits to dependents, applicable to officers and employees of the borough under conditions hereinafter provided, provided such ordinance shall first be approved by a majority of the borough voters voting thereon.

(30) To appropriate borough funds for supplementing any city and county service or function within the borough; such appropriations to be expended through the appropriate departments of the city and county.

(31) To enter into an agreement with any other borough or boroughs for the joint undertaking of any power conferred on a borough herein.

(32) To have and exercise all appropriate municipal powers which may be necessary or proper to the exercise of the foregoing powers or to the discharge of the foregoing duties, and which are not inconsistent with the other provisions of this charter.

Transfer of Borough Powers

SECTION 196. Any power over which a borough shall have exclusive jurisdiction within its limits, as herein provided, may be transferred to the city and county by a borough by ordinance of the borough council thereof, but not unless a majority of the voters of the borough, voting on the question of the transfer of such power, shall first have voted in favor thereof; provided, that no such power shall be transferred to the city and county unless such transfer is also approved by ordinance of the board of supervisors.

Borough Elective Officers and Terms

SECTION 197. The voters of a borough shall elect five members of the borough council, except as otherwise provided; and also a borough controller, unless a borough shall, by ordinance of the council approved by a majority of the voters thereof voting on such ordinance, vest the powers of borough controller in a borough manager. Except as otherwise

provided, borough elective officers shall be elected to serve for terms of four years and until their successors are elected and qualify.

Within fifteen days after the establishment of a new borough created upon petition as herein provided, the mayor of the city and county shall appoint five qualified residents of the borough as members of the council to serve until their successors are elected and qualify. At the next succeeding general borough election, the voters thereof shall elect three members of the council to serve for terms of two years, and two members to serve for terms of four years, beginning at twelve o'clock noon on the 8th day of January following the date of their election.

The council of a borough which by consolidation is automatically established, shall consist of the same number of members as shall compose the council of the city at the time consolidation becomes effective. The city councilmen in office at the time of such consolidation shall continue in office as borough councilmen until the end of the terms for which they were respectively elected, and thereafter until twelve o'clock noon on the 8th day of January of the first succeeding even-numbered year. At the general borough election immediately preceding the expiration of the terms of any such members of a borough council, the voters of the borough shall elect their successors to serve for terms of four years. At every borough general election the successors to those elective borough officers whose terms are next expiring shall be elected to serve for terms of four years.

At the first meeting of the council, it shall appoint a borough controller to serve until his successor is elected and qualifies. At the next succeeding general borough election, the borough voters shall elect a borough controller to serve for a term of four years, beginning at twelve o'clock noon on the 8th day of January following the date of his election; provided, however, that if a majority of the members of the council are elected at the same time, the borough controller shall be elected to serve for a two-year term, and thereafter his term shall be for four years.

A candidate for any elective borough office shall have been an elector of the borough, or of the area comprising the same, for a period of at least five years prior to the date of election at which he is a candidate. No person who shall hold an elective or appointive office of the city and county shall hold any elective borough office.

A borough council may fill any vacancy in an elective office of a borough for the unexpired term thereof.

Duties, Meetings, and Compensation of Borough Councilmen

SECTION 198. The council shall constitute the legislative body of the borough and, except as otherwise provided, shall exercise the powers thereof.

The council shall provide by ordinance for the time and place of holding its meetings and the manner in which its special meetings may be called, provided, however, that there shall be at least two regular meetings in each month. The first meeting shall be held within thirty days after its establishment at the time and place upon which a majority of the council shall in writing agree upon. All

legislative sessions of the council, whether regular or special, shall be open to the public. A majority of all members of the council shall constitute a quorum for the transaction of business. All borough records shall be open to the public.

No member of the borough council shall receive compensation for his services unless an ordinance providing for such compensation shall first have been approved by a majority of the borough voters voting thereon; provided, however, that councilmen of a borough automatically established shall continue to receive the same compensation as provided for councilmen by the city which it succeeds at the time consolidation becomes effective, until the borough provides otherwise by ordinance approved by a majority vote of the vote cast thereon.

The council shall by ordinance determine what bonds, if any, are to be given by the elective and appointive officers of the borough, and shall fix their amounts and form, and such bonds shall be approved in the case of a borough controller by the council and in the case of all other officers by the borough controller, and the premiums thereon shall be paid by the borough.

Borough President

SECTION 199. The council shall choose one of its own number as president to serve at its pleasure. The president shall be the executive head of the borough upon whom process issued by authority of law shall be served. In the name and on behalf of the borough he shall sign all legal instruments and documents to which the borough is a party except where otherwise provided herein or by ordinance. He shall have such other powers and perform such other duties as may be prescribed by law, or by ordinance or resolution of the council.

Borough Controller

SECTION 200. The borough controller shall have in addition to such duties as are prescribed by this charter, such other duties as may be prescribed by borough ordinance. No borough funds shall be drawn from the treasury of the city and county except by warrant issued or countersigned by him, and he shall countersign no such warrant until he has satisfied himself that the claim is a legal obligation of the borough. He shall keep in his office sufficient and proper records and accounts of the financial transactions of the borough. Such records and accounts shall be kept in the forms and manner as prescribed by the controller of the city and county. He shall have access at all times for himself, or for any person designated by him, to books, records and cash in any office of the city and county and/or of the borough in which accounts are kept or money handled on behalf of the borough. He shall have power to inquire into all contracts, including the performance thereof and into all proceedings involving the expenditure of public funds to which the borough is a party, and into the financial transactions of all officers and employees of the borough. For this purpose he may administer oaths, summon wit-

nesses and order the production of relevant books and papers. If any person fails to obey such summons or order or refuses to answer any proper question, the borough controller may petition a court of competent jurisdiction for an order directing such person to comply with said summons or order or to answer such questions. He shall have power to employ such expert accountants or other agents as he may deem necessary to carry out his powers, and the council shall appropriate such funds as may be needed for this purpose.

Borough Clerk

SECTION 201. When consolidation becomes effective, the clerk of any city which is automatically established as a borough shall continue in office as borough clerk thereof until the expiration of the term for which he may be elected or appointed, and thereafter the council shall appoint a borough clerk who shall act as clerk of the council. He shall have power to administer oaths and affirmations, to take affidavits, and to certify the same. He shall have such other powers and perform such other duties as may be provided by this charter, or by ordinance, or order of the council.

Borough Planning Commission

SECTION 202. The council may provide, by borough ordinance, for a borough planning commission of five members. The ordinance shall provide for the qualifications, manner of appointment, terms, and compensation of the members of such commission, but no compensation shall be paid any member unless the ordinance providing for such compensation shall first have been approved by a majority of the borough voters voting thereon. Said ordinance shall provide that the borough planning commission shall have and exercise within the borough such powers and duties as shall correspond to, so far as possible, the powers and duties of the planning commission of the city and county.

Until a borough planning commission is provided, the council shall have and exercise within the borough such powers and duties of a planning commission as the council, by ordinance, may provide.

The borough planning commission, or the council, as the case may be, shall have such advisory powers relating to any planning matter of the city and county affecting any property, streets, public work or public improvement of or within the borough, as may be provided by ordinance of the board of supervisors.

The borough planning commission, or the council, as the case may be, shall have power to recommend changes in or the repeal of any city ordinance establishing zones for the uses of property within the borough which may be continued in effect upon consolidation. In the determination of which class of occupation zones the property within a borough may be divided, or in the modification of any city zoning ordinance continued in effect, the borough planning commission, or the council, as the case may be, shall accept the classification of oc-

cupation zones which the board of supervisors, by ordinance, shall establish for the city and county.

Borough Library Board

SECTION 203. The council may provide, by ordinance, for a borough library board of five members. The ordinance shall provide for the qualifications, manner of appointment, terms and compensation of the members of such board, but no compensation shall be paid to any member unless the ordinance providing for such compensation shall first have been approved by a majority of the borough voters voting thereon.

The borough library board shall have control and management of the borough library and the funds provided for same and shall have power to make such rules and regulations as necessary for the conduct of its affairs, but the treasurer of the city and county shall have custody of such funds.

Borough Manager

SECTION 204. The council may appoint a borough manager, provided, however, that no borough manager shall be appointed unless an ordinance creating such office shall first have been approved by a majority of the borough voters voting thereon, and which ordinance, when so approved, shall not be amended or repealed except by ordinance also approved by a majority of the borough voters voting thereon. The city manager of a city automatically established as a borough shall continue to hold such office as borough manager until removed by the council, and the council may appoint his successor.

The borough manager shall be chosen by the council without regard to political consideration and solely with reference to his executive and administrative qualifications. Residence within the borough shall not be a qualification for his appointment; but promptly thereafter during his term of office, he shall become and shall remain an actual resident of the borough.

The powers and duties of the borough manager shall be as follows:

(a) To act as administrative head of the borough government.

(b) To see that all borough ordinances are enforced.

(c) To appoint, remove, and have control of all subordinates and employees, except as otherwise provided by this charter or by ordinance of the borough.

(d) To see that all permits and privileges granted by the borough are observed and to report any violations thereof to the council.

(e) To attend meetings of the council.

(f) To advise the council on the needs of the borough.

(g) To devote his entire time to the interests of the borough.

(h) To have general supervision of borough parks and playgrounds.

(i) To appoint such advisory boards as he may deem desirable to advise and assist him in his work; provided such board shall not receive any compensation.

(j) To prepare the annual budget, as herein provided.

(k) From time to time, in order to facilitate the prompt, economical and efficient dispatch of borough business, to assign assistants, deputies or employees from any office or department of the government to perform work or service in any other office or department thereof, or to work in more than one of said offices or departments.

(l) To possess such additional powers and duties as may be provided in this charter or by ordinance.

The borough manager shall have the right to take part in the discussion of all matters coming before the council, but shall have no vote therein.

In case of the absence or disability of the borough manager, the council may designate some qualified person to perform the duties of the office temporarily.

No member of the council shall in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the borough manager in making of any appointment or the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for borough manager, or discuss, directly or indirectly, with any such candidate the matter of appointments to borough offices or employments. Any violation of the foregoing provisions of this section shall constitute a misdemeanor and shall work a forfeiture of the office of the offending member of the council, who may be removed therefrom by the council or by any court of competent jurisdiction.

No persons related to a borough manager by blood or by marriage shall be eligible for borough employment.

A borough manager may, by written agreement of the councils of the boroughs interested, act as joint manager for two or more boroughs, in which case he shall become a resident of one of the boroughs so interested and shall devote his entire time to the interests of such boroughs.

Borough Legislation

SECTION 205. The council shall act in legislative matters by ordinance only. Other action of the council, unless otherwise provided, may be taken by resolution, motion or order. No ordinance or resolution or order for the expenditure of money shall be passed without receiving the affirmative votes of a majority of all members of the council.

The enacting clause of all borough ordinances shall be as follows: "The people of the Borough of ———— (inserting the name of the borough) of the City and County of San Francisco do ordain as follows." No ordinance shall be passed by the council on the day of its introduction, nor within five days thereafter, nor at any time other than a regular meeting. A proposed ordinance may be amended or modified between the time of its introduction and the time of its final passage, providing its general scope and original purpose are retained. All ordinances shall be signed by the president and attested by the borough clerk and shall be published at least once in some newspaper of general circulation established, printed and published in the borough, and if there

be no such newspaper they shall be posted in at least three public places in the borough before becoming effective.

Every ordinance passed by a council shall go into effect at the expiration of thirty days after its final passage, unless otherwise provided in said ordinance and as otherwise provided herein. Ordinances declared by the council to be necessary as emergency measures for the immediate preservation of public peace, health, or safety, containing a statement of the reasons for their urgency, and ordinances ordering or otherwise relating to elections, and ordinances relating to public improvements, the cost of which is to be borne wholly or in part by special assessments, may go into effect at the will of the council.

Borough Fiscal Procedure

SECTION 206. Within the time limits fixed by this charter for the preparation and adoption of the budget of the city and county, every borough shall cause to be prepared and shall adopt a borough budget which shall be a complete statement of the estimate of the revenues and expenditures of the borough departments for the ensuing year. Such budget shall be prepared substantially in the same manner and in such detail as required for the budget of the city and county so far as the same may be applicable. Upon the adoption of the budget, it shall take effect at the same time and shall be binding upon the borough in substantially the same degree and in the same manner as the city and county budget shall be effective and binding upon the city and county.

The fiscal year of a borough shall be the same as for the city and county.

Within the time limits fixed by law or by this charter for the city and county, the borough council may levy a borough tax sufficient to raise the amount estimated to be required in the annual budget as herein provided, less the amounts estimated to be received from fines, licenses, and other sources of revenue; but such levy, exclusive of the tax to pay the interest and maintain the sinking funds of the bonded indebtedness of the borough, and exclusive of special assessment and district taxes and of the library tax, shall not exceed the rate of one dollar on each one hundred dollars of the assessed valuation of the taxable property within the borough. Should the council fail to fix the tax rate within the time prescribed, then the borough tax rate of the previous year shall constitute the rate of the current year. The council, by ordinance, may provide for a higher tax limit, but such tax limit shall not be effective unless the ordinance fixing such tax limit shall first have been approved by a majority of the borough voters voting thereon.

All borough taxes levied, together with interest thereon and any percentage imposed for delinquency and the cost of collection, which shall be those prescribed in this charter for the city and county, shall constitute liens on the property assessed, which taxes, interest, penalties and charges shall be collected in the same manner as is provided for the collection of city and county taxes, and which liens may be foreclosed upon in the same manner as is provided for the foreclosure of liens for city and county taxes.

All borough taxes shall be levied on the valuation of the taxable prop-

erty within the borough as shall be fixed by the assessor of the city and county for city and county tax purposes.

There shall be a borough fund for each borough. All borough taxes shall be collected by the tax collector of the city and county and shall be paid into the city and county treasury to the credit of the borough concerned, together with all revenues of a borough received from fines, licenses, and other sources of revenue, except as otherwise provided. Money shall be payable from a borough fund only on warrants drawn with the approval of a borough council by such borough officer as the council may authorize, and when countersigned by the borough controller.

The manner and time within which deposits of borough moneys received from taxes, licenses, fees, fines, penalties, forfeitures, and all moneys accruing to a borough from any source shall be made and the transfer and disposition of all surplus funds, shall be provided for by ordinance of the board of supervisors, and shall be uniform for all boroughs.

The council shall not create, audit, or permit to accrue, any debt or liability in excess of the available money in the borough fund of the borough that may be legally apportioned and appropriated for such purpose; provided that taxes levied though uncollected are deemed available income and revenue for the year for which levied; and provided, that any borough, during the first year of its existence, may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it in such year, nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the borough fund legally applicable to the payment of the same, except as hereinafter provided. When any order or demand is presented to the borough controller for approval and is not approved for want of funds and the amount of said order or demand does not exceed the income and revenue for the year in which the indebtedness was incurred, such borough controller must indorse thereon the words, "not approved for want of funds," with the date of presentation and shall, in attestation thereof, affix his signature thereto; and shall number such indorsement and shall register said order or demand in the records of his office and shall thereupon deliver said order or demand to the claimant, or his order. From that time, such order or demand shall bear interest at the rate of six per cent per annum. Such orders or demands, so registered as herein provided, shall be paid in the order in which the same are registered.

All license taxes collected by the city and county within the limits of any borough shall be credited to the borough fund of such borough by the treasurer of the city and county.

Borough Tax Subventions

SECTION 207. For those boroughs which shall within their own boundaries perform municipal functions concerned with the maintenance of streets, sewers, parks, libraries, and playgrounds, which would otherwise be the municipal obligation of the city and county, the board

of supervisors shall by ordinance provide for a system of subventions to such boroughs from tax funds of the city and county, provided that in no event shall such subvention to any borough in any one fiscal year either exceed the amount which such borough shall appropriate out of borough funds in that year for such municipal functions, or exceed the amount which the city and county shall raise in that year by city and county taxes for similar municipal purposes of the city and county upon the assessed valuation of taxable property within such borough. Such system of subventions may be modified from time to time by the board of supervisors by ordinance, but all ordinances providing for such a system shall apply generally to all boroughs.

Borough Bonded Indebtedness

SECTION 208. A borough may incur an indebtedness, exceeding in any year the income and revenue provided for such year, for the purposes of paying the cost of any borough improvement or acquisition within the power of the borough to make or acquire and may issue and sell borough bonds for such purposes, provided said indebtedness and bonds are authorized as herein provided by ordinance or resolution of the borough pledging the faith and credit of the borough therefor. Such ordinance or resolution shall be adopted and the proposition for the issue and sale of such bonds shall be submitted to a vote of the voters of the borough in substantially the same form and manner and according to the same procedure as is provided in this charter for the issue and sale of bonds by the city and county, or in the manner and form and according to the procedure provided in any general law of the State of California in force at the time governing the issue and sale of bonds by municipalities, so far as the same may be applicable.

No such debt shall be incurred and no such bonds shall be issued by any borough without the assent of two-thirds of the voters thereof voting thereon at an election to be held for that purpose, nor unless before or at the time of incurring said debt or issuing said bonds provision shall be made for the collection of an annual tax sufficient to pay the interest on such debt or bonds as it falls due and provision shall also be made to constitute a sinking fund for the payment of the principal thereof on or before maturity.

In no case shall borough bonds be issued for a term which shall exceed the estimated life of the work or improvement for the payment of which they are issued as certified by the council in the ordinance calling the bond election, nor for a term to exceed forty years.

No bond shall be issued on the faith and credit of the borough which will increase the bonded indebtedness thereof beyond five per cent of the assessed valuation of the property within the borough subject to direct taxation as shown by the last preceding assessed valuation.

The proceeds from the sale of borough bonds shall be applied exclusively to the purposes and objects to which the voters of the borough have assented, until such purposes and objects have been accomplished, after which the surplus, if any, shall be transferred to the bond interest or redemption fund of the borough.

Borough bonds shall not constitute a debt or general obligation of the city and county.

Borough Special Assessments

SECTION 209. In the exercise of its power to provide for the payment of the cost of any public improvement in whole or in part by special assessment levied against the property benefited thereby, a borough acting through its council may establish local improvement districts and levy and collect special assessments and reassessments to pay the costs and expenses of such improvements, which expenses shall be made and assessments levied and collected in conformity with the procedure set forth in this charter for the city and county, or with the procedure set forth in any ordinance passed or adopted thereunder, or with the procedure set forth in any one or more of the general laws of the State of California in force at the time of the improvement relating to the doing of public work or the making of public improvements in municipalities or in counties, so far as the same may be applicable. The council may provide in accordance with the procedure set forth in said charter or said ordinance or general law or laws for the issuance, sale, payment and redemption of interest bearing bonds to represent or to be secured by such assessments or any reassessments remaining unpaid after a certain period, either singly or in the aggregate, and may provide that such assessments or reassessments may be paid in installments and be collected in the same manner in which city and county taxes are collected or otherwise, and for the sale of lands burdened by such assessments or reassessments and for the purchase of same on behalf of the borough in event of nonpayment, and may provide other alternative methods for such collection by foreclosure or otherwise. Such work or improvements are any permitted to be done by boroughs under this charter or by the city and county or by any such procedure, ordinance or general law.

Nothing contained herein shall prevent the board of supervisors from establishing similar local improvement districts where the same shall cover territory in two or more boroughs or parts thereof, or cover territory lying partly within and partly without a borough, or from levying and collecting special assessments and reassessments to pay the cost and expenses of such local public improvements.

Borough Contracts and Official Advertising

SECTION 210. In the preparation of estimates, calling for bids, advertising, and awarding of contracts for supplies, materials, labor, official advertising, or for any public work, a borough shall be subject to the provisions of any ordinance as the board of supervisors shall provide to be applicable uniformly to all boroughs. Such ordinance shall follow as closely as practicable the provisions of this charter relating to such matters applicable to the city and county and shall charge borough officers with appropriate duties in the premises.

Contracts for the official advertising of a borough shall be let as this charter provides for the letting of contracts for official advertising of the city and county, provided that any such contract shall be let to a

daily or weekly newspaper of general circulation established, printed, and published in the borough, if any such there be. If there be no such newspaper, then such contract shall be let to a daily or weekly newspaper of general circulation established, printed and published in the city and county.

Any newspaper of general circulation which for one year next prior to consolidation was established, printed and published in the territory consolidated with the city and county shall thereafter be deemed to have been so established, printed and published as a newspaper of general circulation for said period of one year within said city and county for all purposes of official publication or advertising.

The advertising of the delinquent borough tax list of the property within a borough shall be let by the board of supervisors to the lowest responsible bidder for publication in a newspaper of general circulation printed and published within such borough, if any such there be, and otherwise in such a newspaper printed and published in the city and county and such delinquent tax list shall be published in such newspaper at least once.

Interest in Borough Contracts

SECTION 211. No officer or employee of a borough shall be or become directly or indirectly interested in any contract of such borough. Any such officer or employee violating the provisions of this section shall forfeit his office or place of employment and be disqualified from being elected, appointed or employed in the service of such borough, or the city and county, or any other borough thereof, and such contract shall be void.

Borough Civil Service

SECTION 212. Whenever the voters of a borough shall approve an ordinance of the council providing for civil service for officers and employees of the borough, the council shall enter into an agreement with the civil service commission of the city and county for the administration of the civil service system of the borough, and it shall provide in the borough budget for the payment to the city and county of the costs of such services.

In any such ordinance it shall be provided that all borough officers and employees, not otherwise exempt as herein provided, shall be subject to the civil service provisions of this charter as far as they may be consistently applicable to such officers and employees. Such ordinance shall further provide that there shall be no exemption of any borough officers or employees from the borough civil service system except in the case of elective borough officers, appointees to any borough board or commission not required to give full-time service, and the borough manager, if any. Such ordinance may also provide that any borough officer or employee, who shall be subject to the borough civil service system and who has been continuously employed full-time for one year prior thereto by the borough or by the city automatically established as such borough, shall without any examination be deemed appointed within the civil service provisions of this charter to the position to which he may be assigned and entitled to all the benefits of said civil service provisions thereafter.

Borough Pensions

SECTION 213. Whenever the voters of a borough shall approve an ordinance of the council providing for retirement allowances and death benefits applicable to officers and employees of the borough, the council shall enter into an agreement with the retirement board of the city and county for the administration of the borough retirement allowances and death benefits, and for contributions by the borough and the borough officers and employees to the retirement system of the city and county in like manner as is provided for such administration and contributions by the city and county and city and county officers and employees.

The right of borough officers and employees to participate in such a retirement system, the manner in which they may participate, and the benefits they may enjoy, shall be those provided by the retirement system for officers and employees of the city and county.

In any such borough ordinance it may be provided that any officer or employee participating in its benefits shall receive credit for his prior continuous full-time service to the borough and/or to the city automatically established as such borough, and all liabilities accruing under such system because of such prior service shall be met by the borough.

Borough Elections

SECTION 214. The primary and general elections of a borough shall be held at the time provided in this charter for municipal primary and general elections of the city and county. Except as otherwise provided in this charter, the council by ordinance shall call any special borough election and notice of such special election shall be given by proclamation issued by the president of the council and posted and published as the council may direct for the period of at least thirty days next preceding the date of such election. Any borough election shall be conducted and canvassed in the same manner as an election of the city and county, but the cost of any special election shall be borne by the borough. A borough special election may be called to be held on any day appointed for any primary or general election of the city and county.

Borough Initiative, Referendum, and Recall

SECTION 215. The voters of a borough may invoke the initiative provisions of this charter to apply to any borough ordinance, and they may also invoke the referendum provisions of this charter to apply to any ordinance, act or measure of a borough council. The council may submit any ordinance it is empowered to pass to a vote of the borough voters. The voters of a borough may invoke the recall provisions of this charter to apply to any elective borough officer. It shall be the duty of the board of supervisors, by ordinance uniformly applicable to all boroughs, to make the provisions of this section effective.

Interchange of Services

SECTION 216. Any department, officer, or employee of a borough may

be permitted to perform services for any department or office of the city and county, and may be compensated for such services by the city and county, provided approval thereof is first obtained from the proper borough authority.

Borough Continuation of Employees, Contracts, and Ordinances

SECTION 217. Except as otherwise provided, any employee of a city consolidated with the city and county, who shall be in the employ of any department or office of such city, the power over which shall be conferred upon a borough automatically established as successor to any such city, shall continue in the position to which he may be assigned in the employ of the borough until the end of his term or if without a term until removed by the authority to whom power of removal is committed.

All contracts for materials, supplies and labor, and all public works, special assessments or similar proceedings entered into or undertaken by a city consolidated with the city and county in force or in course of performance when consolidation becomes effective, shall be continued and perfected by the borough automatically succeeding any such city, provided the borough shall have jurisdiction in the matter for which such contracts were entered into or over such public works, special assessment or similar proceedings, and otherwise by the city and county.

All ordinances of a city consolidated with the city and county which are not inconsistent with the provisions of this charter or with any ordinance of the city and county shall, until repealed or amended by borough ordinances, be continued in force as ordinances of the borough automatically succeeding such city.

General Legislation for Boroughs

SECTION 218. The board of supervisors shall have general power to enact all legislation necessary to permit boroughs to exercise their powers or perform their duties under any provisions of this charter and not otherwise provided for herein. Such legislation shall be consistent with the provisions of this charter relating to the city and county or to boroughs and shall be uniform for all boroughs.

MISCELLANEOUS

Per Diem and Mileage

SECTION 219. Except in the discharge of routine duties, traveling and payment of expenses therefor shall be authorized only by ordinance; provided, that allowances therefor shall not exceed cost of transportation, including Pullman charges, if any, and a reasonable amount per diem for necessary expenses, which per diem shall be fixed annually by ordinance and shall be applicable to all officers and employees.

Office Hours

SECTION 220. Except where otherwise provided by law, all public offices shall be open for business every day, except legal holidays, from

eight thirty o'clock A. M. until five o'clock P. M. The supervisors by ordinance may provide that any office shall be kept open for a longer time, when necessary for the accommodation of the public.

Civil Service Exemptions

SECTION 221. References throughout this charter to the exclusion or the exemption from the civil service provisions of this charter shall be construed to mean, exclusive of those civil service provisions that relate to examination, appointment and removal.

Prohibited Practices of Officers and Employees

SECTION 222. No member of any board or commission shall accept any employment relating to the business or the affairs of any person, firm or corporation which are subject to regulation by the board or commission of which he is a member. No supervisor and no officer or employee of the city and county, shall be or become, directly or indirectly, interested in, or in the performance of, any contract, work, or business, or in the sale of any article, the expense, price or consideration of which is payable from the treasury; or in the purchase or lease of any real estate or other property belonging to, or taken by, the city and county, or which shall be sold for taxes and assessments, or by virtue of legal process at the suit of the city and county; nor shall any person in this section designated during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for, the city and county, or any department or officer thereof, or in any franchise, right or privilege granted by the city and county, unless the same shall be devolved upon him by law; nor shall any person mentioned in this section give or promise any money or other valuable thing, or any portion of his compensation, in consideration of his nomination, appointment, or election to any city and county office or employment; or accept any donation or gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee, or from any candidate or applicant for a position as employee or subordinate under him. Violation of any of the provisions of this section shall constitute official misconduct.

Penalty for Official Misconduct

SECTION 223. Any person found guilty of official misconduct shall forfeit his office, and shall be forever after debarred and disqualified from being elected, appointed or employed in the service of the city and county.

Publication

SECTION 224. Whenever advertising or publication is required by the provisions of this charter, it shall mean one publication in the official newspaper of the city and county, unless a greater number of publications is specifically required; provided that notices inviting bids shall be published for at least three consecutive days, except as provided in section 95 of this charter.

Headings and Captions

SECTION 225. Headings and captions used in this charter, whether the same occur between sections or immediately preceding section numbers, are hereby declared to be for no other purpose than the convenient indication of the general subject matter of the provisions which follow, and they shall not be considered or construed in connection with the text of this charter in any way so as to alter or modify the meaning or intent of the provisions of this charter, as such meaning or intent would be determined if such headings and captions were not used.

Constitutionality

SECTION 226. If any section, subsection or subdivision, sentence, clause or phrase of this charter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of this charter. The people of the City and County of San Francisco hereby declare that they would have ratified and adopted, and the Legislature hereby declares that it would have approved, this charter, and each section, subsection or subdivision, sentence, clause and phrase hereof as the charter of the City and County of San Francisco, irrespective of the fact that any one or more other sections, subsections or subdivisions, sentences, clauses or phrases be declared unconstitutional.

CHARTER RATIFICATION AND EFFECTIVE DATE

Schedule — Effective Date of Charter

This charter shall take effect at twelve o'clock noon on the 8th day of January, 1932, except as otherwise specifically provided in this charter; provided, however, that offices which, under the charter superseded by this charter, shall have been filled by vote of the electors of the city and county, and which, by this charter, are made appointive offices shall not be filled by vote of the electors at the general municipal election of 1931. Upon its approval by the Legislature of the State of California, this charter shall take effect as herein provided and shall supersede the chaterr of the said city and county in force at the time immediately preceding such approval.

CERTIFICATE OF FREEHOLDERS

We, the undersigned members of the board of freeholders of the City and County of San Francisco, in the State of California, elected at a special election held in the said city and county on the 26th day of August, 1930, to prepare and provide a charter for the said city and county, under and in accordance with the provisions of the constitution of this state, have prepared, and we do hereby propose the foregoing, as and for a charter for said city and county.

In witness whereof, we hereunto sign our names in duplicate this 19th day of January, 1931.

LEWIS F. BYINGTON
President
F. V. KEESLING
Vice-President
ARTHUR W. BROUILLET
Secretary.
STEPHEN MALATESTA
JULIUS S. GODEAU
THOS. DOYLE
THOMAS P. GARRITY
HUGH GALLAGHER
THOMAS DANFORTH BOARDMAN
JOHN H. MCCALLUM
ADOLPH UHL
C. HAROLD CAULFIELD
LEO A. CUNNINGHAM
JOHN S. DREW

The Board of Freeholders of the City and County of San Francisco hereby requests the board of supervisors of said city and county to cause the publication of the foregoing proposed charter in the manner provided by law and fixes Thursday, the 26th day of March, 1931, as the date for holding a special municipal election in said city and county, at which the said charter shall be submitted to the electors of said city and county for their ratification and adoption.

Dated, January 19, 1931.

LEWIS F. BYINGTON
President

F. V. KEESLING
Vice-President

ARTHUR W. BROUILLET
Secretary.

STEPHEN MALATESTA
JULIUS S. GODEAU
THOS. DOYLE
THOMAS P. GARRITY
HUGH GALLAGHER

THOMAS DANFORTH BOARDMAN
JOHN H. MCCALLUM
ADOLPH UHL
C. HAROLD CAULFIELD
LEO A. CUNNINGHAM
JOHN S. DREW

FREEHOLDERS OF THE CITY AND COUNTY OF SAN FRANCISCO.

Filed, January 19, 1931.

AUTHORIZING THE PUBLICATION OF THE CHARTER PREPARED BY THE BOARD OF FREEHOLDERS IN THE CHRONICLE, THURSDAY, JANUARY 22, 1931.

Resolution No. 33778

(New Series)

RESOLVED, That the Charter prepared by the fifteen freeholders who were chosen by the electors of the City and County of San Francisco, State of California, on the 26th day of August, 1930, and which Charter was duly signed by a majority of said freeholders and filed in the office of the Clerk of the Board of Supervisors of the said City and County of San Francisco on the 19th day of January, 1931, be published once, as provided by law, in the official newspaper of said City and County, and that said publication be made on Thursday, the 22nd day of January, 1931.

ADOPTED—Board of Supervisors, San Francisco, Jan. 19, 1931.

Ayes: Supervisors Andriano, Canepa, Colman, Gallagher, Havenner, Hayden, McGovern, McSheehy, Miles, Peyser, Roncovieri, Shannon, Spaulding, Stanton, Suhr.

Absent: Supervisor Power.

J. S. DUNNIGAN, *Clerk.*

Approved, San Francisco, Jan. 20, 1931.

ANGELO J. ROSSI, *Mayor.*

REGISTRAR OF VOTERS CERTIFICATE OF RATIFICATION OF THE CHARTER

City and County of San Francisco
State of California, } ss.

I, the undersigned Registrar of Voters of the City and County of San Francisco, State of California, do hereby certify that I am the custodian of all records, files, papers and documents regarding elections held within the City and County of San Francisco; that on the 26th day of March, 1931, and pursuant to the order and direction of the Board of Freeholders elected to prepare and propose a new charter for the City and County of San Francisco, a special municipal election was held in said City and County of San Francisco for the purpose of approving and ratifying said charter prepared and proposed and filed by said Board of Freeholders; that said election was duly noticed and advertised for the time and in the manner approved by law and that at said election the question of the ratification and approval of said proposed charter was duly submitted to the electors of the City and County of San Francisco and upon the conclusion of said election and within the time provided by law the vote cast at said election was duly canvassed by the Board of Election Commissioners of the City and County of San Francisco and said Board of Election Commissioners did on the 6th day of April, 1931, declare the result of said vote and did find and declare the vote upon the aproval and ratification of said proposed charter to be as follows, to-wit: In favor of the ratification of said proposed charter 59,084; against the ratification and approval of said charter 45,741, and said Board of Election Commissioners did thereupon certify and declare that a majority of the qualified voters voting upon the question of the ratification and approval of said charter at the election held as aforesaid voted in favor of said proposed charter and that said charter had been duly ratified and approved by the electors of the City and County of San Francisco.

In Witness Whereof, I have hereunto set my hand and affixed my official seal in the City and County of San Francisco, State of California, this 11th day of April, 1931.

C. J. Collins,

(Seal) Registrar of Voters of the City and County of San Francisco, State of California.

RATIFICATION OF THE CHARTER BY THE STATE LEGISLATURE

Whereas, Said proposed charter of the City and County of San Francisco, State of California, has been submitted to the Legislature of the State of California for approval or ratification, as a whole, without power of alteration or amendment, in accordance with the provisions of Section 8 of Article 11 of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, A majority of all the members elected to each house voting therefor and concurring therein, that said charter of the City and County of San Francisco as proposed to and adopted and ratified by the electors of said city and county as hereinbefore fully set forth be and the same is hereby approved as a whole without amendment or alteration, for and as the charter of the City and County of San Francisco.

INITIATIVE ORDINANCES

REFUSE COLLECTION AND DISPOSAL ORDINANCE

Adopted by the Voters as an Initiative Measure at an Election Held November 8, 1932

Providing for the collection and disposition of refuse in the City and County of San Francisco; providing for the licensing of refuse collectors by the director of public health; fixing the maximum rates or charges for the collection of refuse by licensed refuse collectors from homes, apartment houses, stores, etc.; dividing City and County of San Francisco into collection routes; providing penalties for the violation of the provisions of this ordinance.

Be it Ordained by the People of the City and County of San Francisco as follows:

SECTION 1. The term "refuse" as used in this ordinance shall be taken to mean all waste and discarded materials from dwelling places, households, apartment houses, stores, office buildings, restaurants, hotels, institutions and all commercial establishments, including waste or discarded food, animal and vegetable matter from all kitchens thereof, waste paper, cans, glass, ashes, and boxes and cuttings from trees, lawns and gardens.

SECTION 2. It shall be unlawful for any person, firm or corporation to dispose of refuse as defined in this ordinance except as herein provided, save that the provisions of this ordinance shall not include refuse which may be incinerated by an owner of a building for himself or for his tenants on the premises where produced; provided, however, that such incineration shall be subject to inspection and control by the Director of Public Health and the Fire Department.

SECTION 3. Refuse consisting of waste or discarded food, animal and vegetable matter, discarded containers of food, animal and vegetable matter, and ashes shall be collected and placed in suitable metal cans of sufficient capacity by the producer or landlord who by reason of contract or lease with an occupant is obligated to care for such refuse, and delivered to a refuse collector to be disposed of as herein provided. Waste paper and boxes and other refuse materials not subject to putrefaction, or decay, and cuttings from trees, lawns and gardens may be placed in any suitable container and delivered by the producer or landlord, who by reason of contract or lease with the occupant is

obligated to care for such refuse and deliver same to a refuse collector, to be disposed of as herein provided; provided, however, that it shall be optional with the producer or landlord to deliver waste paper or other refuse having a commercial value to a refuse collector, and the producer or landlord may dispose of the same in any manner he may see fit. If the producer or landlord elects to deliver waste paper or other refuse having a commercial value to a refuse collector, the collector shall receive the same and no additional charge shall be made for its removal. Refuse which under the provisions hereof must be deposited in a metal can of suitable capacity shall be removed daily from the place where the same is created and either delivered to a refuse collector or deposited in a non-combustible container in some room or place not used for human habitation, to be delivered therefrom to the refuse collector.

SECTION 4. It shall be unlawful for any person, firm or corporation, other than a refuse collector licensed by the Director of Public Health as in this ordinance provided, to transport through the streets of the City and County of San Francisco any refuse as in this ordinance defined, or to collect or to dispose of the same, except waste paper, or other refuse having a commercial value. It is provided, however, that a license for a refuse collector, as provided in section 8 hereof, shall be distinguished from a permit to operate, in the City and County of San Francisco on a certain designated route, as hereinafter provided.

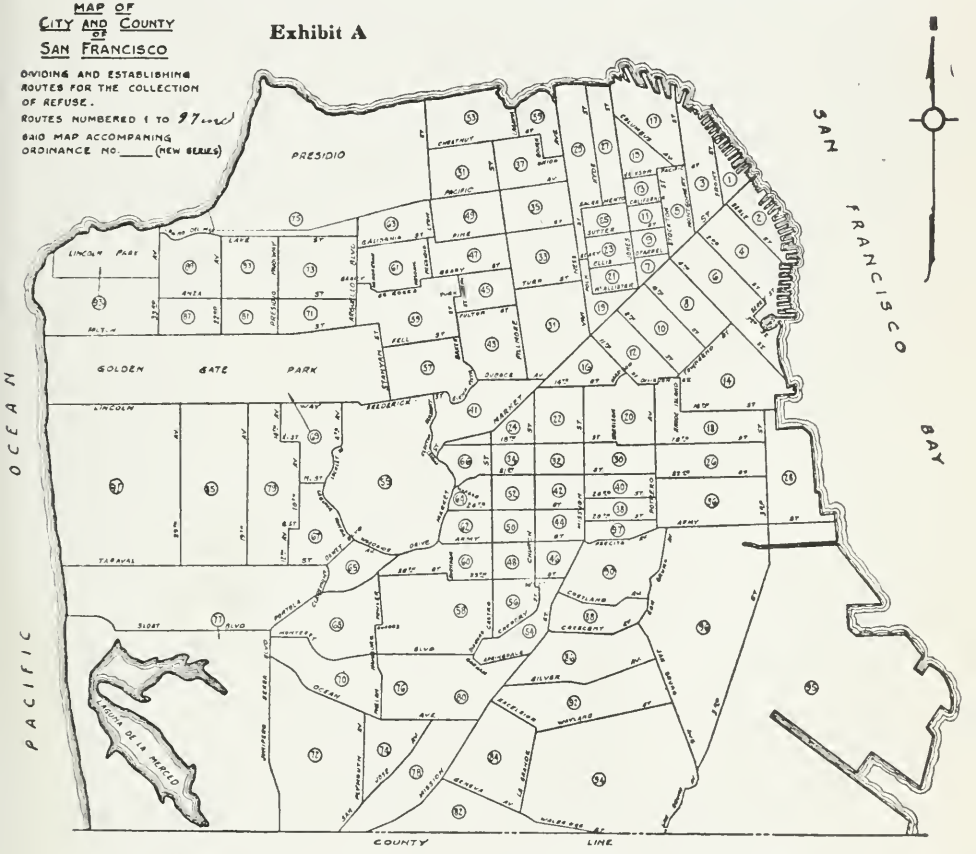
Upon the conviction of any person, firm or corporation for any violation of the provisions of this ordinance, the permit of such person, firm or corporation issued under the provisions of this ordinance, shall be forthwith and immediately terminated and canceled as of the date of conviction.

The City and County of San Francisco is herewith divided and established into routes for the collection of refuse, as designated on a map of the City and County of San Francisco, attached hereto, each said route to include only the side of the street or streets bounding each route as designated by a number on said map, said routes being numbered one to ninety-seven inclusive, and said map and said routes are marked Exhibit A, and attached hereto and made a part of this ordinance.

Any person, firm or corporation desiring to transport through the streets of the City and County of San Francisco, any refuse as herein defined, or to collect or dispose of the same, shall make application to the Director of Public Health for permission so to do. Said application for such permit shall contain the name of the person, firm or corporation, any of the particular route or routes, designated in said map of routes, proposed to be served by said person, firm or corporation, and a statement that said person, firm or corporation will abide by all the provisions of this ordinance, and will not charge a greater rate for the collection and disposition of said refuse than that fixed in this ordinance.

The Director of Public Health shall grant such application for a permit, but may refuse the same when the route proposed is already adequately served by a licensed refuse collector. An application for a permit must be granted, however, by the said Director of Public Health, and it is mandatory on said director to grant the same, when it shall

appear in any said application for a route or routes by a person, firm or corporation, that twenty per cent or more of the householders, business men, apartment house owners, hotel keepers, institutions or residents in said route or routes, using refuse service, and paying for same, or obligated to do so, have signed a petition or contract in which they have stated that they are inadequately served by any refuse collector who is then collecting refuse on said route. That inadequate service is herein defined as the failure, on the part of any refuse col-



MAP OF THE CITY AND COUNTY OF SAN FRANCISCO

lector to properly collect refuse on said route, or the overcharging for the collection of same, or for insolence towards persons whose refuse has been collected, or the collection by any refuse collector whose license has been revoked as provided in section 9 hereof. Such permit so granted by the Director of Public Health shall not be exclusive, however, and one or more persons, firms or corporations may be given a permit to collect on the same route.

Persons, firms or corporations desiring to transport through the streets of the City and County of San Francisco only waste paper or other refuse having a commercial value, and to collect and dispose of same need

not obtain a permit therefor under the provisions of this ordinance from the Director of Public Health as for the collection of other refuse.

SECTION 5. All refuse collected by any refuse collector shall be incinerated at the San Francisco incinerator, located in the block bounded by Alameda, Fifteenth, Rhode Island and DeHaro streets, or at some other incinerator, hereafter designated by the board of supervisors of the City and County of San Francisco, or shall be disposed of by any other method designated by the board of supervisors, except dumping at sea. It is provided, however, that metals may be melted at places other than at said incinerator.

That said incinerator shall be placed under the control of some person, firm or corporation designated by the board of supervisors and said person, firm or corporation, shall incinerate in said incinerator all refuse received, as herein provided, or the Board of Supervisors may provide for the disposition of refuse by any other means, except dumping at sea, as provided by law or ordinance of the City and County of San Francisco, and said person, firm or corporation incinerating, or otherwise disposing of said refuse as herein provided, may charge the refuse collector for such disposition, a charge may be agreed upon between the refuse collector and said person, firm or corporation for so disposing of said refuse. Provided, however, that if such charge cannot be agreed upon, such charge shall be fixed and determined by the Board of Supervisors, but in no event shall the charge exceed the maximum of one dollar and fifty cents per ton. Should any dispute arise between the refuse collector and the person, firm or corporation having control of said incinerator, or other disposition of refuse, as provided for by law, concerning the amount of such charge, pending the determination thereof by the Board of Supervisors as herein provided, the person, firm or corporation having charge and control of said incinerator or other disposition of said refuse, shall continue such disposition until the matter of such charge will have been determined by the Board of Supervisors, and upon such determination, the refuse collector shall pay to the said person, firm or corporation the amount fixed by said person, firm or corporation in charge of said incinerator for all refuse incinerated or otherwise disposed of pending said dispute.

SECTION 6. The maximum rates or charges for the collection and disposition of refuse, as herein defined, by the refuse collectors are hereby fixed as follows:

Monthly rates from residences and flats. Made from the ground floor:

	Collections per Week:					Collections per Week:			
No. Rms.—	(1)	(2)	(3)	(4)	No. Rms.—	(1)	(2)	(3)	(4)
1 to 4, incl.	$ .40	$ .60	$ .90	$1.15	9	.70	1.05	1.20	1.45
5	.45	.65	.95	1.20	10	.75	1.10	1.30	1.55
6	.45	.65	.95	1.25	11	.80	1.15	1.35	1.60
7	.60	.90	1.05	1.30	12	.85	1.25	1.45	1.70
8	.65	1.00	1.15	1.40					

Monthly rates from residences and flats. Made from second floor, one stairway above ground floor or basement:

No. Rms.—	Collections per Week: (1)	(2)	(3)	(4)	No. Rms.—	Collections per Week: (1)	(2)	(3)	(4)
1 to 4, incl.	$ .45	$ .70	$ .95	$1.20	9	.80	1.15	1.35	1.55
5	.50	.75	1.05	1.30	10	.85	1.20	1.40	1.65
6	.50	.80	1.15	1.40	11	.90	1.25	1.45	1.70
7	.65	.95	1.20	1.45	12	.95	1.35	1.55	1.80
8	.75	1.10	1.30	1.50					

Monthly rates from residences and flats. Made from third floor, two stairways above ground floor or basement:

No. Rms.—	Collections per Week: (1)	(2)	(3)	(4)	No. Rms.—	Collections per Week: (1)	(2)	(3)	(4)
1 to 3, incl.	$ .50	$ .70	$1.00	$1.25	8	.80	1.25	1.60	1.65
4	.50	.70	1.20	1.30	9	.85	1.35	1.70	1.75
5	.50	.70	1.35	1.40	10	.90	1.40	1.80	1.85
6	.50	.70	1.45	1.50	11	.95	1.45	1.90	2.00
7	.75	1.15	1.50	1.60	12	1.00	1.55	2.00	2.10

Monthly rates from residences and flats. Made from fourth floor, three stairways above ground floor or basement:

No. Rms.—	Collections per Week: (1)	(2)	(3)	(4)	No. Rms.—	Collections per Week: (1)	(2)	(3)	(4)
1 to 3, incl.	$ .55	$ .80	$1.20	$1.45	8	.90	1.40	1.80	2.05
4	.55	.80	1.40	1.65	9	.95	1.50	1.90	2.15
5	.70	.95	1.50	1.75	10	.95	1.60	2.00	2.25
6	.75	1.00	1.60	1.85	11	1.00	1.70	2.10	2.35
7	.85	1.30	1.70	1.95	12	1.10	1.80	2.20	2.45

Monthly rates from apartment houses:

No. Rms.—	Collections per Week: (6)	(4)	(3)	(2)	(1)
10	$ 2.40	$ 1.90	$1.70	$1.50	$1.40
20	4.50	3.90	3.50	3.10	2.90
30	6.30	5.10	4.70	4.10	.....
40	7.80	6.90	5.90	.....	.....
50	9.00	8.15	6.90	.....	.....
60	10.00	9.20	.....	.....	.....
70	11.00	10.30	.....	.....	.....
80	12.00	11.20	.....	.....	.....
90	13.00	12.10	.....	.....	.....
100	14.00	12.90	.....	.....	.....
110	15.20	.....	.....	.....	.....

No. Rooms—	Collections per Week (6)	No. Rooms—	Collections per Week (6)	No. Rooms—	Collections per Week (6)
120	$16.30	290	35.00	450	51.60
130	17.40	300	36.00	460	52.70
140	18.50	310	37.00	470	53.80
150	19.60	320	38.00	480	54.90
160	20.70	330	39.00	490	56.00
170	21.80	340	40.00	500	57.10
180	22.90	350	41.00	510	58.20
190	24.00	360	42.00	520	59.30
200	25.10	370	43.00	530	60.40
210	26.00	380	45.00	540	61.50
220	27.00	390	46.00	550	62.60
230	28.00	400	47.00	560	63.70
240	29.00	410	47.20	570	65.80
250	30.00	420	48.30	580	65.90
260	31.00	430	49.40	590	67.00
270	32.00	440	50.50	600	68.00
280	33.00				

The rates for more than 600 rooms in any one apartment house shall be subject to contract between the owner or lessee of the apartment house and a duly licensed refuse collector.

In determining the number of rooms of any household, building or apartment in order to ascertain the rate for the collection and disposition of refuse therefrom, halls, alcoves, storerooms, bathrooms, closets and toilets shall not be considered as rooms, nor shall basements or attics be considered as rooms unless the same be occupied as living quarters.

Any collection and disposition charges not specifically set forth herein shall be subject to contract between the producer and a duly licensed refuse collector.

Section 7. It shall be unlawful for any refuse collector to charge a greater rate for the collection and disposition of refuse than that fixed in Section 6 of this ordinance.

Nothing herein contained shall be taken or construed as preventing a refuse collector from charging a less rate or charge for the collection of refuse than that fixed in Section 6 of this ordinance.

Section 8. Each licensed refuse collector shall be assigned a number by the Director of Public Health. The Director of Public Health shall furnish each collector a metal badge on which is marked the number assigned the collector, who at all times while collecting refuse shall wear said badge in plain view. The Director of Public Health shall collect from each collector for the expense of providing said badge and the issuance of said license the sum of $5. Each vehicle or wagon in which refuse is transported through the streets shall be assigned a number by the Director of Public Health and the number thereof shall be plainly marked thereon.

Section 9. The license, as distinguished from a permit herein, of any refuse collector, may be revoked by the Director of Public Health for

failure on the part of the refuse collector to properly collect refuse, or for overcharging for the collection of same, or for insolence towards persons whose refuse he is collecting, and it shall be unlawful for any person whose license is so revoked to collect refuse in the City and County of San Francisco.

No license of a refuse collector shall be revoked except upon a hearing of which the refuse collector has been given a notice of at least three days.

SECTION 10. Upon the payment of the rate fixed in this ordinance for the collection and removal of refuse, the person paying the same shall be entitled to, and there shall be delivered to him a receipt on which shall be shown the amount paid, the premises for which it is paid, the name and number of the collector, the number of the vehicle or wagon, the schedule of rates herein set forth, and on the back of said receipt there shall be printed the following words:

"The rates for the collection of refuse are fixed by ordinance of the Board of Supervisors. Complaints as to service should be made to the Director of Public Health."

SECTION 11. Disputes over charges made by collectors or as to the character of the service performed shall be decided by the Director of Public Health.

SECTION 12. A refuse collector shall be entitled to payment for the collection of refuse at the end of each month from each householder or landlord served by him and from whom the payment is due.

SECTION 13. The initiative ordinance passed by the People of the City and County of San Francisco on June 14, 1927, providing for the collection and disposition of refuse in the City and County of San Francisco; providing for the licensing of refuse collectors by the Board of Health; fixing the maximum rates or charges for the collection of refuse by licensed refuse collectors from homes and apartment houses; dividing City and County of San Francisco into collection routes; and providing penalties for the violation of the provisions of this ordinance, and all other ordinances in conflict herewith, are herewith repealed.

SECTION 14. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred (500) dollars, or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 15. This ordinance shall take effect ten days after the declaration of the official count of the votes cast therefor; provided, however, that for the purpose of issuing licenses to refuse collectors, application may be filed and the licenses issued during the period between the final approval of this ordinance and the date of its taking effect.

SECTION 16. During the month of January each year the Controller of the City and County of San Francisco shall survey and examine into the rates to the producer for the collection and disposition of refuse, with a view to a reduction in such rates, and upon completion thereof

shall report his conclusions to the Board of Supervisors. The Board of Supervisors may by a two-thirds vote reduce the rates upon receipt of said report when found to be justified, and may increase said rates, but not to exceed the rates herein set forth. The Board of Supervisors shall have no other right to amend this ordinance.

SECTION 17. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. It is hereby declared that this act, and each section, subsection, sentence, clause and phrase thereof, would have been passed irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases had been declared unconstitutional.

REGULATION OF STREET RAILWAY CARS

Adopted by the Voters as an Initiative Measure at an Election Held May 2, 1934

Poviding for the Operation of Street Railway Cars by a Motorman and Conductor, Specifying the Entrance Age of Employees on Street Railways, and Providing a Penalty for Violations Hereof.

Be it Ordained by the People of the City and County of San Francisco as follows:

SECTION 1. Every street railway car, while carrying passengers in the City and County of San Francisco, shall be in charge of a motorman and a conductor, and each of said employees must be an adult of not less than twenty-one (21) years of age, and no such street car shall be operated in said City and County of San Francisco while carrying passengers, unless the same is in charge of a motorman and conductor having the qualifications herein provided for.

This ordinance shall not be repealed, modified or amended except by vote of the electorate.

SECTION 2. Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offense, not less than Fifty Dollars ($50.00), nor more than Three Hundred Dollars ($300.00), or by imprisonment for a term not exceeding six (6) months in the County Jail of the City and County of San Francisco, or by both such fine and imprisonment.

ANTI—PICKETING ORDINANCE

Adopted by the Voters as an Initiative Measure at an Election Held November 7, 1916.

An Ordinance Prohibiting Loitering, Picketing, Carrying or Displaying Banners, Badges, Signs or Transparencies, or Speaking in Public Streets, Sidewalks, Alleys or Other Public Place in a Loud or Unusual Tone, for Certain Purposes Therein Named and Providing a Penalty for Any Violation Thereof.

Repealed by Initiative Ordinance Approved by the Electors at an Election Held March 2, 1937.

Section 2.*

Where provisions of the San Francisco Charter, which took effect January 8, 1932, are not self-executing, but require ordinances to be passed to carry such provisions into effect—then ordinances passed under the old charter will not be considered superseded until such ordinances contemplated by the new charter take their place.

There being nothing on the face of the new charter to the contrary, its provisions are prospective and not retrospective. *King v. Leavy,* 124 C. A. 422, 12 P. (2d) 661.

The City and County of San Francisco, acting through its Board of Supervisors, had power to propose a bond issue, under the provisions of Section 4088 of the Political Code, for the relief of its indigent sick and dependent poor. In so doing, it would be performing a *county* function as provided for under state law; it being remembered that the City and County of San Francisco has the powers and performs the functions of both a city and a county. And such an expenditure of money, being in pursuance of a *public purpose,* it would not come within the scope of the prohibition of Section 31 of Article IV of the State Constitution preventing gifts of public money.

The special election called to approve the bond issue was not here improperly consolidated with the August primary election, although held on the same date and in the same precincts. *San Francisco v. Collins,* 216 C. 187, 13 P. (2d) 912.

Under Section 2 of the charter, the City and County of San Francisco has elected to avail itself of the benefits of Article XI, Section 8, of the California Constitution permitting of "Municipal Home Rule." The net result of this is that as to "municipal affairs" the charter is a *limitation of power* rather than a *grant of power;* And thus, in municipal matters, any powers not expressly forbidden to the municipality may be exercised by the municipality—and any limitations upon its exercise are those only which have been specified in the charter.

As the levy of taxes by a municipality for revenue purposes is strictly a municipal affair, and the San Francisco Charter contains no express limitation or restriction upon the power of the city to impose license taxes for revenue purposes, such taxes may legally be imposed and collected. *West Coast Advertising Co. v. San Francisco,* 14 C. (2d) 516, 95 P. (2d) 138.

**"Section 2" herein, and subsequent sections, refer to sections of the charter. Only those sections of the charter have been noted where the courts have rendered decisions interpreting them.*

Section 3.

See *San Francisco v. Collins* (Section 2).

Section 5.

Under the provisions of Section 8½ of the Constitution, it was proper for the charter of the City and County of San Francisco to determine what officers shall be chosen by election and what officers shall be chosen by appointment.

The name of an office is unimportant. The duties and powers to be exercised by the incumbent determine the office.

Rand v. Collins overrules Crowley v. Freud, 132 Cal. 440, 64 Pac. 646. *Rand v. Collins,* 214 C. 168, 4 P. (2d) 529.

Section 7.

Teachers and other employees of the school department in San Francisco are employees of one of the school districts of this area, which are separate and distinct entities from the City and County of San Francisco, and therefore such teachers and employees are not included within the residence requirements of Section 7 of the charter, as laid down for the employees of the City and County of San Francisco. *Lansing v. Board of Education,* 7 C. A. (2d) 211, 45 P. (2d) 1021.

Interpreting the provisions of Sections 7 and 144 of the charter together, as they must be, to reach a reasonable conclusion and workable civil service system, it appears that Section 144 imposes as *conditions precedent to the taking of an examination* the requirements of Section 7, to wit:—citizenship and one year's residence in San Francisco.

The City of San Francisco, in exercise of its plenary power, has set up in the charter a complete scheme for the making of appointments under civil service, and has conferred power on the Civil Service Commission to pass on the qualifications of examinees, including not only such qualifications as are disclosed by the examination, but also such other qualifications such as age, residence, experience, etc.; and in passing on such questions, including the question of residence, *the Commission acts in a quasi judicial capacity. Dierssen v. Civil Service Commisson,* 43 C. A. (2d) 53, 110 P. (2d) 513.

Section 9.

A contract for services of a civil engineer, over a five year period, to furnish information relative to transit and traffic conditions, is not invalid as providing for an illegal duplication of the functions and duties of existing officers, where there is nothing in the charter delegating powers to departments and officers which suggests even a limitation upon the powers of the Board of Supervisors to plan, study and legislate for civic betterment and improved conditions of municipal affairs.

To promise payment of money upon the performance of a contract for expert professional temporary service out of an unencumbered and unexpended fund, admittedly set aside for such expenditure, is not to contract a "liability" in violation of the San Francisco Charter provision prohibiting the passage of an ordinance or resolution for the expenditure of

money without certification that there is sufficient money for the proposed expenditure, since there is no "debt" until the service has been rendered, even though some of the contingent payments may become payable five years later. *San Francisco v. Boyd,* 17 A. C. 647, 110 P. (2d) 1036.

Section 13.

The validity of the tax levy of the City and County of San Francisco for the fiscal year 1934-35 was here involved. The proposed expenditure exceeded the increase allowable under the 1933 amendment to Article XI, Section 20 of the Constitution of the State of California. Approval of this increase was then sought, as provided in the Constitutional amendment, from the State Board of Equalization. The Board of Supervisors on September 14, 1934, adopted a resolution that application be made of the State Board of Equalization for permission to exceed the limitation of expenditures set forth in Section 20 of Article XI of the Constitution. On that same afternoon, the Board of Equalization considered the application as made by the city, and issued an order allowing the city to exceed the limitation by a specific amount.

The court held:

(1) That the Board of Supervisors was not prohibited, under Section 13 of the charter, from considering and acting upon a "resolution" in one day, and without any previous reference to committee.

(2) That the provisions of Section 3714b of the Political Code calling for application to the Board of Equalization to be filed "at least 30 days before the date fixed for the determination of the tax rate of such * * * city and county * * *" was merely *directory* and not mandatory. That the time requirement, herein noted, was purely one of procedure to aid in the orderly course of the business of the Board of Equalization, and that the Board could and did waive the requirement here.

(3) That the rule of construction of assessment in this state is provided in Section 3885 of the Political Code as follows:

> "No assessment or act relating to the assessment or collection of taxes is illegal on account of informality, nor because the same was not completed within the time required by law."

The court therefore held that the procedure steps taken by the Board of Supervisors and by the State Board of Equalization were not in disregard of Article XI, Section 20, of the Constitution, Section 3714b of the Political Code, or Section 13 of the charter, and the tax levy was hence valid. *Skelly Estate Co. v. City and County of San Francisco,* 9 C. (2d) 28, 69 P. (2d) 171.

The constitutional reservation to the *people* of the power of referendum, as set forth in Section 1 of Article IV of the Constitution, must be read into the charter of the City and County of San Francisco, as all charters adopted under Article XI of the Constitution, even though granting "municipal home rule," still must be "consistent with and subject to the Constitution." Thus, as Section 1 of Article IV of the Constitution, on the power of referendum, declares that no measure creating or abolishing any office or changing the salary, term or duties of any office, shall be construed as an *emergency* measure, any ordinance passed as an *emer-*

gency measure is invalid if it creates an office or changes the salary, term or duties of a public officer.

The court also makes the following observation: "By the provisions of Section 143 of the San Francisco charter, the only method for the creation of new positions in any department is by 'appropriation ordinance of the Board of Supervisors.'" *Brown v. Boyd,* 33 C. A. (2d) 416, 91 P. (2d) 926.

Section 13 of the charter in providing that action by the Board of Supervisors shall be by ordinance or resolution further provides that "every legislative act shall be by ordinance."

Here the Board of Supervisors of San Francisco in passing the "resolutions" called for by the State Housing Authority Law, and thereby agreeing to furnish, without cost, municipal services and facilities, was acting in an "executive and administrative" rather than "legislative" capacity, and therefore its action by "resolution" was perfectly proper. This follows because the public purpose involved was declared and made a law by the legislature of the state when it enacted the Housing Authority Law, which applied to and affected the entire citizenry of the state as a body, and the action here taken by "resolution" of the Board of Supervisors of San Francisco was merely designed to carry into effect the law already enacted. *Kleiber v. San Francisco,* 18 Cal. (2d) 718.

Section 22.

It was proper, under the charter, for the Board of Supervisors by resolution to direct the city attorney to commence an action to abate, as a nuisance, a dilapidated building owned and used as a stable; and such action by the Board would not constitute an interference with the health department, within the prohibition of Section 22 of the charter.

In such action, it was proper for the court to order a demolition of the building where (1) it was found the building was a nuisance by reason of its use and dilapidated condition, and (2) the cost of repairing the structure to remove the objections of the health department was in excess of what was permitted to be spent in repairing a nonconforming use under the zoning ordinance. *People v. Ryan,* 17 C. A. (2d) 1, 61 P. (2d) 360.

Section 24.

See *West Coast Advertising Co. v. San Francisco* (Section 2).

Under the provisions of Section 24 of the charter a regulatory or inspection fee is expressly allowable in the administration of an health or sanitary ordinance. In determining whether all the requirements of Section 24 of the charter are met, so as to permit of a regulatory or inspection fee, it is proper to construe together all the ordinances that may have been passed upon the same subject matter, even though such ordinances may have been enacted at different times and none of the ordinances contained any specific reference to one another.

Thus, in this case it was proper to construe together two ordinances, one of which was adopted before the effective date of the new charter, and the other was adopted after the effective date of the new charter, and when so construed together all of the requisites called for by Section 24 of the charter were met. *In Re McKeon,* 9 C. A. (2d) 223, 49 P. (2d) 618.

A tax levied by reason of *ownership* of property is a tax on property rather than an occupation tax; and the mere right to own and hold property cannot be made the subject of excises. Here, a situation was presented where the same persons paid taxes on their vehicles *twice,* to the same taxing power, during the same period, based each time upon *ownership* of the same property, and each time for the same purpose, namely, *revenue.* Under such circumstances these so-called license taxes clearly fall within the terms of Section 3607 of the Political Code, which provides that double taxation of property shall not be permitted. Further, though the State Constitution does not forbid double taxation expressly, it does provide by Article XIII, Section 1, that "all property in the state * * * shall be taxed in proportion to its value," which language has been construed to prohibit double taxation of property. *Flynn v. San Francisco,* 18 Cal. (2d) 210. (Case also reaffirms West Coast Advertising Co. v. San Francisco, 14 Cal. (2d) 516 decision).

Section 41.

Although Section 41 of the charter of the City and County of San Francisco grants to the Park Commission the exclusive control and management of parks, including the exclusive right "to erect and to superintend the erection of buildings" thereon, such authority may not be exercised in such a manner as to create a nuisance. *Hassell v. San Francisco,* 11 C. (2d) 168, 78 P. (2d) 1021.

Under the provisions of Section 41 of the charter, the City and County of San Francisco, *through its Board of Park Commissioners,* possessed the power to execute a fifty-year lease of the subsurface space beneath Union Square for the purpose of erecting thereon a public automobile garage and parking station, provided the terms of the original grant presented no barrier; and the city having acquired the property by virtue of a *dedication by the public,* the city would not be prevented from changing the character of the use of the land so long as the contemplated use was not inconsistent with the enjoyment by the public of the land for park purposes.

No such inconsistency arises by virtue of a temporary deprivation of park use for about ten months while the underground garage is being constructed, or because when the park is finally reconstructed 6½% of the park surface will be used as permanent entrances and exits to and from the subsurface garage. *San Francisco v. Linares,* 16 Cal. (2d) 441, 106 P. (2d) 369.

Section 62.

See *Rand v. Collins* (Section 5).

Section 70.1.

A resolution reducing the compensation of each officer and employee of the City and County of San Francisco passed by the Mayor and the Board of Supervisors of San Francisco, pursuant to the provisions of Section 70.1 of the charter governing extraordinary economic conditions, is applicable to all city employees, including employees of a municipal water agency of the city working in another county. *Snell v. Byington,* 2 C. A. (2d) 127, 37 P. (2d) 734.

Section 71.

While the tenure of a position may rest in the discretion of a commission, the compensation thereof does not; the power to fix the compensation for the municipal officers and employees, including therein the power to increase or decrease pay, rests with the Board of Supervisors under the provisions of Sections 71 and 73 of the charter. *Francis v. Leavy,* 131 C. A. 620, 21 P. (2d) 979.

An "assistant keeper" in sheriff's office, who was temporarily assigned by the department head to perform the duties of a position of "head keeper" under the provisions of Section 71 of the charter, was not entitled to receive any different compensation from that allowed to be paid for the position of "assistant keeper." *Dunn v. Civil Service Commission,* 3 C. A. (2d) 554, 40 P. (2d) 310.

Where we do not have salary standardization, the salary of positions subject to standardization (under the provisions of Section 71 of the charter) are such as are "recommended by the officer, board of commission having the appointing power for such positions *and fixed by the budget and annual salary ordinance.*" Thus a mere recommendation by the appointing power as to the salary for any position is meaningless *unless it also appears* that such salary was "fixed by the budget and annual salary ordinance."

Where the salary ordinance for the period here involved provided that in filling any *vacancy* occurring in any position, the rate of pay for the person appointed to fill such vacancy shall not exceed "entrance grade salary" for such position, this limitation of pay is controlling as to the salary permitted to be paid a person at the time he is appointed to fill a vacancy—even though the salary ordinance may list a higher salary appropriation for the position, and even though those who have served for longer periods of time may eventually be entitled to receive the "maximum grade salary." *Banks v. Civil Service Commission,* 10 C. (2d) 435, 74 P. (2d) 741.

While Section 71 of the charter provides in part that "any compensation paid as of January 1, 1931, to an incumbent who legally held a position in the city and county service at that time, shall not be reduced so long as the incumbent legally holds the position", this prohibition (in the light of the whole of said charter provision) only runs to a *reduction caused by a reduction in wage rate,* and *does not prohibit a reduction in the number of hours or number of days of employment.*

Courts have judicial knowledge of all the provisions of the San Francisco charter. *Weigle v. San Francisco,* 23 C. A. (2d) 274, 72 P. (2d) 902.

Under the provisions of Section 71 of the charter, the time for establishing any increase in wage rate of municipal employees is before the passage of the annual salary ordinance. And the instruments within which the increase of the rate of wage is to be expressed are: (1) the annual budget estimates; (2) the annual budget, and (3) the appropriation ordinance. Once the budget is approved by the Board of Supervisors the *fiscal terms* of the annual appropriation ordinance and the annual salary ordinance are *automatically fixed* beyond the power of change by any amendment. Any

effort of the Board of Supervisors to increase a wage scale in the annual salary ordinance, over the amount provided in the approved budget, is void. Thus, it is seen that salaries and wages are not fixed by the salary ordinance—the purpose of the salary ordinance is simply to bring the salaries and wages as finally determined into one ordinance for more convenient reference. *Sullivan v. McKinley,* 14 C. (2d) 113, 92 P. (2d) 892.

Section 73.

See *Francis v. Leavy* (Section 71).

Section 86.

Where there is a failure to comply with the provisions of Section 86 of the charter no enforcible liability can arise against the city, and no recovery can be had in *quantum meruit* against the city, arising out of any such void contract. *Williams Bros. & Haas v. San Francisco,* 53 A. C. A. 510.

Section 87.

Compliance with the provisions of Section 87 of the charter, which requires that in *all* claims for damages against the city, before suit is brought, there shall be filed with the Controller a verified statement setting forth the date and place of injuries, their nature and amount, and amount of damages claimed, is a condition precedent to the action, and a complaint failing to so allege a demand fails to plead a cause of action. *Cathey v. San Francisco,* 37 C. A. (2d) 575, 99 P. (2d) 1109.

See *Wilkes v. San Francisco,* 44 Cal. App. (2d) 393.

A claim for damages for personal injuries suffered as a result of a dangerous or defective condition of a public highway must be filed with the clerk or secretary of the Board of Supervisors of San Francisco, pursuant to the provisions of the Public Liabilities Act of the State of California, Act 5149, Deering's General Laws, 1937, Vol. II, irrespective of the provisions of Section 87 of the San Francisco charter, as this is a matter of statewide concern. *Wilkes v. San Francisco,* 44 Cal. App. (2d) 393, 112 P. (2d) 759.

Section 98.

A subcontract with a general contractor for the furnishing of mill work for use in the performance by the latter of its contract to construct, in its entirety, a public school building, is not a "contract for public work", within the meaning of Section 98 of the charter as it existed on May 17, 1935; it was merely a *purchase of materials,* and the fact that to the contract was attached detailed plans and specifications which called for "mill work" did not convert such subcontract for mill work into a "contract for public work." *Pacific Manufacturing Co. v. Leavy,* 14 C. A. (2d) 640, 58 P. (2d) 1292.

Section 101.

See *San Francisco v. Collins* (Section 2).

Section 117.

Section 117 of the charter permits "an interested property owner" to initiate proceedings to rezone a parcel of property; an "adjacent" property owner is thus permitted to apply to rezone his neighbor's property. *Marculescu v. City Planning Commission,* 7 C. A. (2d) 371, 46 P. (2d) 308.

Section 121.

Under the broad powers enumerated in Section 121 of the charter, the Public Utilities Commission of the City and County of San Francisco is authorized and empowered to discontinue or abandon part of the transportation system operated by the city; and before an abandonment is had, it is not necessary that the Board of Supervisors by ordinance determine that the public interest or necessity demands such an abandonment. *Mann v. San Francisco,* 139 C. A. 652, 34 P. (2d) 817.

Section 125.

Engineering draftsman, who had been working on a public works project outside the city for more than a year prior to the effective date of the new charter, was "blanketed" without examination into the position under civil service by the provisions of Section 142 of the new charter, and his name was improperly stricken from the civil service eligible list on the grounds of nonresidence.

The fact that the engineering work was centered mainly on the municipal airport (which airport was under the Public Utilities Commission) did not change his status as an employee of the bureau of engineering of the department of public works. *Archer v. Civil Service Commission,* 1 C. (2d) 357, 34 P. (2d) 1023.

Section 135.

A teacher who had taught successfully in both day and evening high school for more than three years and had been duly classified as a permanent teacher could not be removed without cause, either under the State School Code or the provisions of the charter; and the "position" from which he could not be removed, except for cause, was the employment which the statute automatically effected upon his classification as a permanent teacher, it being immaterial that he was assigned to duty in one or more schools or school buildings maintained by the school district, or that he conducted day or evening classes.

The day and evening assignments were held to constitute but one "position" within the meaning of the Tenure Law. (On denial of hearing in Supreme Court, approval was withheld from this latter conclusion of the District Court that the two employments constituted but "one" position).

Cullen v. Board of Supervisors, 126 C. A. 510, 15 Pac. (2d) 227, reviewed in 21 Cal. Law Review 400. *Cullen v. Board of Education,* 126 C. A. 510, 15 P. (2d) 227.

The provision of Section 135 of the San Francisco charter, wherein principals and vice-principals are included among those who are protected from dismissal without cause, is wholly consistent with, and in nowise in derogation of, the general purposes of the State Tenure Law, and therefore is in nowise unconstitutional.

Thus, where a person has been employed continuously for more than three years as a teacher in the day high school of the city, and as a principal of an evening high school of the city, he cannot be removed from his position of principal without cause and without a trial. (On denial of hearing in the Supreme Court, approval was withheld on conclusion of the District Court that two employments of teacher constitute but "one" position). *Anderson v. Board of Education,* 126 C. A. 514, 15 P. (2d) 774, 16 P. (2d) 272.

The right of tenure is a right which a teacher enjoys to continue in a position of a rank and grade equivalent to that occupied for the probationary period, and where a teacher was elected as a vice-principal teacher to a *city* school in 1921, and continued to hold that position until 1931, she had acquired a tenure under the provisions of subdivision 1 of Section 1793 of the Political Code, which prevented her dismissal without cause; and to arbitrarily reduce her status to that of a teacher, with a consequent reduction in compensation, would serve to violate and destroy her right of tenure as such vice-principal teacher, and it could not be said that she was not reduced in grade because of her retention as a teacher in the elementary schools. *Klein v. Board of Education,* 1 C. (2d) 706, 37 P. (2d) 74.

Under the provisions of Section 135 of the charter, teachers, principals, and others therein mentioned, are only to be classified as permanent employees after having served a probationary period of three years. A person who is employed for two years as a principal, and for two preceding years in another capacity, does not thereby acquire any permanent tenure as a principal. Not having acquired any permanent tenure, or vested right, as a principal, he may not complain that the motive of the Board of Education in consolidating two schools was to defeat his permanency, so long as the board acted within the law. *Constantine v. Board of Education,* 43 Cal. App. (2d) 794, 111 P. (2d) 698.

Section 141.

Under the provisions of Sections 141 and 148 of the new charter of the City and County of San Francisco, the Civil Service Commission has authority to determine whether a position is "temporary, seasonal or permanent" in character as well as one's rights thereunder (consistent of course with Section 148 of the charter).

An employee who was not eligible to hold a "permanent" position, because of the higher rating of others still on the eligible list, and so accepted a "temporary" position, and signed a written certification to such "temporary" position, and under a rule of the Civil Service Commission was appointed to such "temporary" position for a five-month period only and was not thereafter reappointed to the "temporary" position until a one day interval had elapsed, did not acquire any status as an employee occupying a "permanent position"; to the contrary, such employee was and remained a "temporary" employee.

(McGillicuddy v. Civil Service Commission, 133 Cal. App. 782, decided under the old charter, was held inapplicable in view of the new charter changes.) *Villain v. Civil Service Commission,* 18 A. C. 921, 117 Pac. (2d) 880.

Section 142.

See *Archer v. Civil Service Commission* (Section 125).
See *San Francisco v. Boyd* (Section 9).

A draftsman, whose work pertained to a project located outside of the City and County of San Francisco (though his work was performed partly in and partly out of San Francisco), held a position which was exempt from civil service under Article XIII, Sec. 11, of the former charter of San Francisco, but which position became blanketed into the civil service system under Section 142 of the new charter. *Cutting v. McKinley,* 130 C. A. 136, 19 P. (2d) 507.

Under the *old* charter there were only two types of civil service appointments: (1) a *regular appointment* from an eligible list, which became complete after satisfactory service during a probationary period if not in excess of six months, and (2) *temporary appointment,* when no eligible list exists, and which appointment would continue not exceeding sixty days in duration only until a *regular* appointment could be made.

Here a regular appointment was made under the *old* charter, and eleven days thereafter the new charter went into effect. Under Section 142 of the new charter, any civil service rights acquired by person under the old charter, were to be preserved for them under the new charter. As under the *old* charter the commission did not have the authority to determine the "character of a position", its attempt to declare this position "temporary" and to last for only four months was beyond its authority and after the appointee had served his six months probationary appointment he then automatically became a permanent civil service employee.

The court, however, recognized that in a case where the new charter would control, the Civil Service Commission would have the authority to determine the "character of a position" and this because of Section 148 of the new charter which provides in part:

"From the requisition of the appointing officer or otherwise, the commission shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment."

(This distinction between the old and new charters was later ratified and confirmed in the case of Villain v. Civil Service Commission, 18 A. C. 921.) *Doerr v. Civil Service Commission,* 21 C. A. (2d) 173, 68 P. (2d) 731.

Section 143.

See *Brown v. Boyd* (Section 13).

Section 144.

See *Dierssen v. Civil Service Commission* (Section 7).

Section 145.

Under both the old and new charter, the Civil Service Commission was given the right to remove the names from an eligible list after they had remained thereon more than two years. When the commission allowed a

list of eligibles (adopted under the old charter) to remain in existence more than two years after the new charter became effective before cancelling it, the commission did not exceed its powers in then cancelling such list. *Jensen v. Civil Service Commission,* 4 C. (2d) 334, 49 P. (2d) 283.

Section 146.

Under the provisions of Section 146 of the charter, directing the Civil Service Commission to provide for *promotional examinations* "whenever it deems it to be practicable", the question of whether a promotional examination is practicable is confined to the limited discretion of the commission—the exercise of which will be interfered with by the courts only when the discretion has been abused.

It was an abuse of discretion for the Civil Service Commission to provide for an *open non-promotional examination* (rather than promotional examination) in this case, where it appeared that, under the qualifications established by the commission as a condition precedent to the taking of the proposed examination, there were eighteen persons in the Tax Collector's office, as well as many others elsewhere in the civil service outside the Tax Collector's office, who were fully qualified to take the proposed examination, and, if they passed, fully qualified to fill the position. In such case the impracticability of giving a *promotional* examination can be ascertained only after those eligible have been given an opportunity to take such an examination. *Allen v. McKniley,* 117 Pac. (2d) 342.

Section 148.

See *Doerr v. Civil Service Commission* (Section 142).

See *Villain v. Civil Service Commission* (Section 141).

Under the provisions of Section 148 of the charter, the Civil Service Commission must certify the *person ranking highest* on the current list of eligibles to fill a position. This is a mandatory duty of the commission. While the commission may be mandated to comply with this requirement, the *highest eligible*: (1) would not be entitled to the salary of the office until he reported for duty, (2) would still have to serve a probationary period of six months under the provisions of Section 148 of the charter, and (3) his date of seniority could not be fixed at any date prior to the date he was entitled to have his name certified to the appointing board. *Ballf v. Civil Service Commission,* 43 C. A. (2d) 211, 110 P. (2d) 478.

Section 155.

Since the authority conferred by Section 155 of the charter upon the Board of Police Commissioners to dismiss police officers under certain conditions is pursuant to the constitution and is of a judicial character exercised by a quasi-judicial body, certiorari can only lie if said board acted in excess of the jurisdiction granted. As the board had the authority to impose the penalty here concerned, and the discretion of the board is thus involved and not its jurisdiction, certiorari will not lie. *Ludolph v. Board of Police Commissioners,* 30 C. A. (2d) 211, 86 P. (2d) 118.

When police officers acquire knowledge of facts which will tend to in-

criminate any person, it is their duty to disclose such facts to their superiors and to testify freely concerning such facts when called upon to do so before any duly constituted court or grand jury. It is for the performance of these duties that police officers are commissioned and paid by the community, and it is a violation of said duties for any police officer to refuse to disclose pertinent facts within his knowledge even though such disclosure may show, or tend to show, that he himself has engaged in criminal activities.

While such police officers could exercise the constitutional privilege of refusing to testify before the grand jury, they could not exercise this constitutional right without violating their duty as police officers. Any such violation of duty would constitute "conduct unbecoming an officer," and would constitute cause for dismissal—even in the absence of any specific rule of the police commission requiring such officers to give testimony before the grand jury. *Christal v. Police Commission*, 33 C. A. (2d) 564, 92 P. (2d) 416.

Section 158.

The filing of an application to retire on a pension, upon reaching the retirement age and after having served the required number of years and made all necessary contributions to the retirement system pension fund, does not *ipso facto* retire the applicant. It is necessary that an order of retirement be duly made. Up to that time the police officer, whether under suspension or in actual service, is under the control and jurisdiction of the police commission. If, prior to an order of the retirement board, he is dismissed upon charges of conduct unbecoming an officer, he is not entitled to "a pension" as that term is used in the charter. *MacIntyre v. Retirement Board of City and County of San Francisco*, 42 Cal. App. (2d) 734, 109 Pac. (2d) 962.

Section 163.

A police officer, who is retired under the old charter, is not prohibited from being a candidate for an elective office in the City and County of San Francisco under any of the provisions of the old charter; any inhibitions found in Section 163 of the new charter apply only to those who are members of the new retirement system, and a police officer retired under the old charter is not so included. *Sunder v. Collins*, 219 C. 430, 27 P. (2d) 382.

Section 166.

Subdivision (c) of Section 166 of the present charter relating to police pensions is a re-enactment of Section 4, Chapter IX, Article VIII, of the old charter, and under both where an officer dies as a result of a pre-existing disease of the heart and it is established that the disease has been aggravated and death accelerated or precipitated by the exertion in performing the duties of his office, the case falls within the scope of the charter provision, and the widow is entitled to the benefits granted thereby. *Naughton v. Retirement Board of San Francisco*, 42 C. A. (2d) 245.

Section 169.

A person employed by the city under the old charter does not have a vested right to always have the pension law remain as it was when he first became a city employee. It was perfectly proper to modify the pension right under the new charter, and a city employee whose right to retire accrued after the new charter became effective would receive only such benefits as was allowed by and under the new charter. A pension law may be changed or modified so long as the vital contingency has not happened upon which an employee may predicate his right to a pension. *Carr v. Fire Commission of San Francisco,* 30 C. A. (2d) 208, 85 P. (2d) 959.

A widow's pension rights are such (if any) as exist at the time of her husband's death; and at any time before then, the law granting any such widow's pension rights may be altered or even repealed. *Jordan v. Retirement Board,* 35 C. A. (2d) 653, 96 P. (2d) 973.

Section 172.1.

Section 172.1 of the charter, providing for the establishment of a "health service system" in San Francisco for the city employees, is a proper subject matter for charter regulation. The health and efficiency of city employees is properly a "municipal affair" and a charter provision providing for the same may be incorporated by amendment into the city charter, under the provisions of Article XI, Section 8, of the California Constitution permitting of "municipal home rule."

The deduction from the salary of the employees to defray the expense and operation of such a system is perfectly proper and not a denial of due process, as public employees do not possess any vested right in any particular measure of compensation or benefits. *Butterworth v. Boyd,* 12 C. (2d) 140, 82 P. (2d) 434.

Section 174.

See *San Francisco v. Collins* (Section 2).

Where realty in the City and County of San Francisco was originally conveyed to the Board of Education of the City and County of San Francisco in 1858, by the commissioners of the funded debt of the City of San Francisco, pursuant to statute enacted earlier in the same year, and subsequently the San Francisco Unified School District was created, title to the realty passed under the State Statute to the San Francisco Unified School District where it now resides. *San Francisco Unified School District v. San Francisco,* 54 A. C. A. 147.

The "Digest of California Supreme and Appellate Court Decisions" for this Charter was prepared by the City Attorney.

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1944

CHARTER

OF THE

City and County of San Francisco

As Adopted March 26, 1931, (in effect, January 8, 1932,)
with Amendments to and including June 9, 1944.

Re-Published by
Authority of the Board of Supervisors

DAVID A. BARRY, Clerk of the Board

1944

HISTORY OF LEGISLATION

Ratified by the vote of the People March 26, 1931; ratified by the Legislature of the State, April 13, 1931; in effect January 8, 1932; Amended by vote of the People, November 8, 1932; ratified by the Legislature, January 12, 1933. Amended by vote of the People, November 6, 1934; ratified by the Legislature, January 26, 1935. Amended by vote of the People, May 2, 1935; ratified by the Legislature, May 17, 1935. Amended by vote of the People, March 9, 1937; ratified by the Legislature, April 14, 1937. Amended by vote of the People, November 2, 1937; ratified by the Legislature, March 12, 1938. Amended by vote of the People, November 7, 1939; ratified by the Legislature, February 8, 1940. Amended by vote of the People, May 7, 1940; ratified by the Legislature, January 20, 1941. Amended by vote of the People, November 5, 1940; ratified by the Legislature, January 21, 1941. Amended by vote of the People, November 4, 1941; ratified by the Legislature, December 22, 1941. Amended by vote of the People, November 3, 1942; ratified by the Legislature, January 11, 1943. Amended by vote of the People, November 2, 1943; ratified by the Legislature, January 31, 1944. Amended by vote of the People, May 16, 1944; ratified by the Legislature, June 9, 1944.

Section 35.5½. (a) The word "member" or "members" as used in this section shall mean the members of the several ranks in the police department set forth in section 35.5 of this charter.

(b) The basic week of service for each member shall be forty-eight (48) hours and the annual compensation set forth in section 35.5 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to one (1) day off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the police commission public interest requires the services of any member to serve in excess of the basic week of service during any week, the said police commission may authorize the chief of police to permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this subsection. For service performed in excess of the basic week, members shall be compensated on the basis of straight time in accordance with the ratio, which said excess service bears to the basic week of service and the annual compensation provided therefor in section 35.5, or in lieu thereof equivalent time off duty with pay.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in section 151 of this charter, or the normal day off per week; provided, however, that when in the judgment of the police commission public necessity requires the services of any member to serve on his vacation, or part thereof, or normal day off, the said commission may authorize the chief of police to permit said member to serve during said vacation, or part thereof, or normal day off, and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of straight time in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensations provided therefor in section 35.5.

(f) The police commission is hereby authorized to require a member or members to work more than forty-eight (48) hours per week in any week when public necessity requires such services, and the member or members so serving more than forty-eight (48) hours shall be granted added compensation or time off with pay for said extra service performed.

(g) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part I, of the San Francisco Municipal Code, approving rule 32 of the civil service commission, insofar as sick leaves and disability leaves for members are concerned.

(h) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignments, prior to going on duty, the said commission may designate a period not to exceed fifteen (15) minutes in any one day for said reporting, and the said periods of fifteen (15) minutes need not be compensated for in money or in time off with pay.

(i) Notwithstanding the provisions of any of the foregoing subsections, the police commission is empowered to designate certain legal

holidays as additional days off with pay for members of the police department and members required to perform police service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of said commission.

(j) This section shall become effective on the 1st day of July, 1944, provided the same is ratified prior to said date by the Legislature of the State of California. If not ratified prior to said date, this section shall become effective on the 1st day of the month immediately following the date of ratification. *Ratified by the Legislature,* June 9, 1944.

Section 36.1. (a) The tours of duty provided for in section 36 of this charter and the length thereof, and the platoon system provided for in said section for the officers and members of the uniformed ranks shall continue as now set forth in said section.

(b) Each member of the uniformed force shall be entitled to at least one (1) day off in each seven (7) and such additional days or time off as may be approved by the fire commission.

(c) When, in the judgment of the fire commission, it is in the public interest that any member of the uniformed force of said fire department should work on his day off and said member consents to so work, he may at the direction of the chief engineer of the department work on said day off, and in addition to the regular compensation provided for said member as set forth in section 36 of this charter, said member shall be entitled to be compensated at his regular rate of pay as provided for in section 36 for said extra time served.

(d) Each member of the uniformed force of the fire department shall be entitled to a vacation period of two (2) weeks as provided for in section 151 of this charter, provided, however, that if in the judgment of the fire commission it is in the public interest that any member of the said department should continue his service to the department during his vacation period, and said member consents to continue his said service, the chief engineer of the department may permit said member to continue such service, and said member shall in addition to his annual vacation pay, be paid additional compensation for said vacation period, which said compensation shall be equal to the vacation pay allowed to said member of the department.

(e) Salary warrants for extra time served by officers and members of the uniformed force of the department shall be payable from the regular salary appropriation of said uniformed force for the prevailing fiscal year, and at no time shall extra compensation be authorized or paid in amounts exceeding the available unencumbered balance in said appropriation.

(f) Nothing in this section contained shall in any way interfere with the sick or disability leave provided for in Section 301, Part I, of the San Francisco Municipal Code.

(g) This section shall be effective on the first day of July, if the same is ratified prior thereto by the Legislature of the State of California, and if not so ratified shall be effective within fifteen (15) days after the date of its ratification.

(h) The provisions of this section shall continue in force for a period of six (6) months after the termination of the present war between the United States and the axis powers. *Ratified by the Legislature,* June 9, 1944.

Section 36.2. For the purpose of properly compensating the members of the uniformed force of the San Francisco fire department whose compensations are provided for in section 36 of this charter and the members of the salvage corps, which corps is provided for in section 38.1 of this charter, during the existing war between the United States of America and the axis powers and for six (6) months after the termination of said war, the compensation provided for the several ranks of

the uniformed force mentioned in section 36 of this charter and the compensation of members of the salvage corps mentioned in section 38.1 of this charter is hereby increased Twenty-five ($25) Dollars per month for each person serving in said uniformed rank and in said salvage corps.

If the amendment containing this section is ratified by the Legislature prior to July 1, 1944, it shall become effective on said last mentioned date, and if ratified at a later date, it shall become effective within fifteen (15) days after the date of its ratification. *Ratified by the Legislature,* June 9, 1944.

Extension of Municipal Railway by Unification With Market Street Railway

Section 119.1. 1. The City and County of San Francisco shall have power and is hereby authorized, in addition to all other powers howsoever conferred upon said city and county, to extend the existing San Francisco municipal railway by the acquisition of the operative properties of Market Street Railway Company, hereinafter called "said operative properties," and to acquire said operative properties, thereby supplying said city and county and the inhabitants thereof with a unified street railway system and incidentally furnishing transportation in and to San Mateo County.

2. The adoption of this section shall be deemed to and shall constitute a finding by the people of the City and County of San Francisco that the public interest and necessity demand the extension of the existing municipal railway by the acquisition of said operative properties, thereby providing a unified municipal railway system for the benefit of said city and county and its inhabitants.

3. Upon the payment in full of the cost of said operative properties, as herein provided, said operative properties shall be consolidated with the present municipal railway and shall become a part thereof and both of said systems so consolidated, and all additions, betterments and improvements thereto, shall constitute the municipal railway of the City and County of San Francisco, and shall be subject to all the provisions of this charter then in effect. Prior to the payment in full, as herein provided, of the cost of said operative properties the same shall be operated by the public utilities commission, hereinafter called "commission," and the provisions of sections 74, 127, 128, 128.1, 129 and 130 of this charter shall not be applicable to said operative properties, the operation thereof, or the revenues derived therefrom, nor shall any other provision of this charter, inconsistent with the provisions of this section 119.1, be applicable; provided, however, that said commission shall nevertheless manage, control and operate said properties as an extension of the municipal railway with uniform fares and transfer privileges so as to constitute a unified street railway system.

Prior to the acquisition of said operative properties, the commission shall submit, and the mayor shall approve and the board of supervisors shall adopt, a budget relating to such unified operation in the same manner and subject to the same conditions except time as provided in the charter and in this section 119.1, for the submission and approval of the annual budget, the annual appropriation ordinance and the annual salary ordinance. Provided that such budget and ordinances shall become effective upon such acquisition.

For the purpose of accounting for the revenues derived from the operation of said operative properties prior to the payment in full of the cost thereof, 57% of the gross revenues of the municipal railway and said operative properties shall be deemed to be and shall constitute the revenues applicable to and derived from the operation of said operative properties, and said revenues shall be set aside by the controller in a special fund, which is hereby created, to be designated "Municipal Railway-Market Street Extension Fund," hereinafter called "extension

fund'' and shall be held separate and apart from all other moneys in the treasury.

Out of the moneys estimated to be received in said extension fund there shall be appropriated by the board of supervisors the amounts recommended by the commission for the following purposes and in the following order:

(a) The operating expenses of said operative properties, including pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require in connection with said operative properties. The aggregate amount provided from said extension fund for such requirements in any year shall be 55.96% of the annual cost of all of the operating expenses and above described charges and payments made on account of both the existing municipal railway and said operative properties then operated as a unified system;

(b) All amounts provided for repairs and maintenance of said operative properties. The aggregate amount provided from said extension fund for such requirements in any year shall be 56.49% of the annual cost of repairs and maintenance of both the existing municipal railway and said operative properties, then operated as a unified system;

(c) Amounts determined by the commission to be necessary to create and maintain a reconstruction and replacement fund applicable to said operative properties, not exceeding for the first year after such acquisition $500,000, and not less than $300,000, and in subsequent years until the purchase price shall have been paid in full, a sum not exceeding $750,000 for the first year and not less than $500,000 per annum thereafter. Any unencumbered balance remaining in said reconstruction and replacement fund at the close of each fiscal year shall become a part of the moneys to be paid to the Market Street Railway Company pursuant to sub-paragraph (d) hereof;

(d) The entire balance remaining in the extension fund which shall be paid to Market Street Railway Company as required by the terms of the purchase contract, but in any event not later than thirty days after the close of the fiscal year of the city and county. It is hereby found and determined that the ratios herein established for gross revenues, operating expenses and other charges, and repairs and maintenance of the municipal railway and said operative properties represent the exact ratios prevailing between said systems based on a study and report of the commission which is hereby approved and adopted.

4. All amounts herein required to be paid from the extension fund shall be paid by the treasurer of the city and county upon presentation of a controller's warrant drawn at the demand of the commission. It is hereby made the duty of the commission to make such demand in accordance with the terms of the purchase contract and for the purposes herein provided.

All moneys paid to Market Street Railway Company shall be applied first to the payment of interest on the purchase price and the balance to the unpaid principal of said purchase price. None of the

moneys in said special trust fund shall be diverted to any other purpose or used or applied for any other city and county purposes or transferred to any other fund.

5. The provisions of this section 119.1 shall prevail over any other provision of this charter or general law, and the method herein provided for the extension of the existing municipal railway by acquisition of said operative properties shall be deemed to constitute an additional method of providing for such extension by the acquisition of said operative properties and for the payment of the cost thereof.

Whenever the commission, with the advice and approval of the mayor, shall agree with the Market Street Railway Company upon the terms and conditions of such acquisition of said operative properties, it shall be the duty of the commission and the mayor to execute such contract for and on behalf of the City and County of San Francisco and in its name. Subject only to the provisions of this section 119.1, such contract may provide, among other things:

(a) That the maximum purchase price shall be $7,500,000, whereof $2,000,000 shall be paid forthwith from surplus in any of the funds of the existing municipal railway derived from earnings of the existing municipal railway, which surplus is hereby determined to exist and to be available for, and is hereby appropriated for, said purpose, and the city and county shall be obligated solely to pay the balance of said purchase price exclusively from the moneys in said extension fund, as herein provided. The unpaid balance of said purchase price shall bear interest at the rate of not to exceed four (4) per cent per annum, payable annually.

It is hereby found and determined that after making said initial payment herein provided to be made to Market Street Railway Company there will remain in the funds of the municipal railway moneys fully sufficient to pay and discharge all current obligations of the bonds issued by the city and county for the acquisition, construction and completion of said municipal railway and all other costs and charges now payable from said funds;

(b) That the title to said operative properties shall be transferred to the city and county upon payment of said $2,000,000 and the execution of proper instruments of conveyance and shall be good and merchantable title free and clear of all claims, liens and encumbrances of every kind and character, whether in favor of the Market Street Railway Company or in favor of any one other than Market Street Railway Company;

(c) That upon the delivery of such instruments of conveyance, Market Street Railway Company shall assign and transfer to the city and county all franchises, permits and licenses of any kind or character necessary or desirable in connection with the operation of said operative properties, and shall surrender and cancel its existing operating permit, whereupon all rights, privileges and obligations under said operating permit and all other permits and franchises granted by the city and county shall be terminated and canceled;

(d) That uniform rates, fares and charges, and universal transfer privileges shall be established and maintained by the commission and

that except for school children and other special cases pursuant to which reduced or free transportation now exists in accordance with the existing practice of the municipal railway, the regular fare for transportation of passengers on said unified street railway system shall not be less than 7 cents per passenger until the purchase price of said operative properties shall have been paid in full as herein provided; and provided, however, that said fares shall not be increased in excess of 7 cents per passenger except in accordance with the procedure of section 130 of the charter;

(e) That the City and County of San Francisco and all commissions, boards, officers and employees thereof shall comply with the terms and conditions of said contract and this section 119.1. Such contract may contain such other terms and conditions not inconsistent with the provisions of this section, as the commission may deem appropriate for the purpose of carrying out the objects and purposes of this section, including but without being limited to the agreement that the city and county will operate said operative properties and maintain the same in good running order, and otherwise utilize said operative properties in an efficient and economical manner in accordance with the established operating and business standards and practices of the street railway industry, subject only to breakdown and other causes beyond the control of the city and county; that the city and county will not make any extensions, radical changes or alterations to said operative properties or abandon any substantial portion thereof except only to the extent that such extensions or abandonments are required by reason of the unification of the operations of said operative properties with those of the municipal railway. The city and county, however, shall not be obligated to pay any of the costs or expenses provided to be paid under such contract from any source other than said extension fund.

6. Except for the sum of $2,000,000 to be paid Market Street Railway Company as herein provided, the obligation of the city and county to pay the balance of said purchase price, interest thereon, all operating expenses, all other charges of any other kind or character incurred in connection with said operative properties shall be limited exclusively to moneys in said extension fund as herein provided and under no circumstances shall the payment of any part thereof constitute a debt, liability or obligation of the City and County of San Francisco, nor shall the city and county be obligated to pay any part thereof from any moneys derived from the levy or collection of taxes upon the taxable property of the City and County of San Francisco, provided that nothing herein or elsewhere in the charter contained shall prevent the city and county from paying any part of the balance of said purchase price and interest thereon or any other charges in connection with the operation or maintenance of said operative properties from any funds of the municipal railway appropriated by the board of supervisors for that purpose, which said funds the board of supervisors may in its discretion appropriate; and in the event of such appropriation the provisions of section 129 of the charter, insofar as the revenues of the municipal railway are concerned, shall be suspended until the cost of the acquisition of said operative properties is paid in full, and provided further that under no circumstances shall the city and county make such payments

from its general funds or from any funds other than as provided by this section 119.1.

7. The acquisition of said operative properties in the manner herein provided is hereby determined to be and shall constitute an extension and improvement of the existing municipal railway.

8. Until the purchase price of said operative properties shall have been paid in full, the commission is hereby authorized to fix, establish and collect uniform rates, charges and fares for the transportation of persons on both the municipal railway and the said operative properties, without regard to section 130 of the charter, except as herein provided and provided that such rates, charges and fares shall not be less than those specified in this section 119.1. After the purchase price of said operative properties shall have been paid in full all rates, charges and fares for transportation service furnished by the then unified and extended municipal railway shall be fixed, established and collected only in accordance with the then existing provisions of the charter, without regard to this section 119.1. *Ratified by the Legislature,* June 9, 1944.

Leaves of Absence

Section 153. Leaves of absence to officers and employees of the city and county shall be governed by rules established by the civil service commission, provided that leave of absence to any officer or employee for the purpose of leaving the city and county, taking a position outside of the city and county service, or accepting a position in some department or office of the city and county other than the one in which he is employed and where the duties are in no way related to the duties covered by his civil service classification, shall be limited to six (6) months; and provided, further, that no limit shall be placed on a leave of absence granted to enable an officer or employee to accept promotion to a non-civil service position in the same department in which he holds civil service status, or promotion to co-related work in another department or office of the city and county.

Leaves of absence shall be granted to officers and employees of the City and County of San Francisco and non-certificated officers and employees of the San Francisco Unified School District for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two (2) years after the proclamation of peace, except in case of disability incurred while in active service with the armed forces or the merchant marine when such disability shall extend beyond such period.

Whenever any officer or employee of the City and County of San Francisco, or any non-certificated officer or employee of the San Francisco Unified School District shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report and serve in the armed forces of the United States, or in the armed forces of the State of California, said officer or employee shall be entitled to a leave of absence from his office or position during the time of such service and for a period not to exceed three (3) months after the expiration thereof. Officers and employees entering or being inducted into any of the services requiring military leave as provided in this section shall file with the civil service commission a copy of the orders necessitating such service prior to the effective date of the leave of absence. Leaves granted pursuant to the provisions of this and the preceding paragraph of this section shall be designated "military leaves."

The board of supervisors may, on the recommendation of the civil service commission, provide by ordinance that leaves of absence shall be granted to officers and employees during time of war or during any emergency declared by the President of the United States, for other service directly connected with the prosecution of the war or national defense or preparedness. Leaves granted under authority of ordinances enacted pursuant to the provisions of this paragraph shall be designated "war effort leaves."

Any officer or employee on military leave, who, prior to such leave, has been appointed to a permanent position in the city and county service, shall be entitled to resume such position at the expiration of his

leave, and in determining and fixing rights, seniority, salary and otherwise, which have accrued and shall inure to the benefit of such officer or employee, the term of military leave shall be considered and accounted a part of his service under the city and county except that such military leave shall not be considered nor counted in the computation of sick leave, vacation and service under the retirement provision of the charter.

Eligibles on civil service lists entering or being inducted into any service for which military leaves are authorized for officers or employees shall, prior to the date of expiration or cancellation of such civil service list as provided in section 145 of this charter, file with the civil service commission a copy of the orders requiring such service, or other competent proof of such service in order to qualify under any of the provisions of this section.

Persons serving in the armed forces of the United States or the State of California during time of war or during any emergency lawfully declared by the President of the United States, who have standing on an eligible list, shall retain their places thereon, and upon presenting an honorable discharge or certificate of honorable active service from such military service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, shall be preferred for appointment for a period of four (4) years after the proclamation of peace or the termination of said emergency in the order of standing upon such register at the time of entering such military service and before candidates procuring standing through an examination held subsequent to the entrance of such eligibles into the military service. If while in said military service the names of such persons are reached for certification to permanent positions, appointments shall be made to serve until such persons in the military service shall present to the civil service commission an honorable discharge or certificate of honorable active service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, but not less than ninety (90) days nor more than one (1) year after the date of discharge of each such eligible, when they shall be certified and assume the duties of positions in said class and their certification to said positions for the purpose of lay-off only shall be deemed to be the date when their names on such eligible lists were reached for certification, provided that no such persons shall be certified to entrance positions in the uniformed ranks of the police and fire departments under this provision who are more than thirty-five (35) years of age unless the names of such persons were reached for certification to such positions before such persons reached said age.

Persons who participate in a regular written civil service examination and who by reason of their active services in the Army, Navy or Marine Corps are unable to complete all parts of the examination, and who present their orders or other competent proof of service in the same manner as is required of eligibles, shall acquire standing on eligible lists in accordance with the relative excellence attained by participation in the part or parts of the examinations already completed; provided that upon presenting their honorable discharges or certificates of honorable active service within the time limits specified in this section covering

eligibles, they must qualify in the remainder of the examinations. When qualified they shall be certified as of the date they would have been reached for certification in accordance with the relative excellence attained by their participation in the entire examination.

The civil service commission shall adopt rules to govern the administration of leaves as herein provided and to govern lay-offs occasioned by the return of officers, employees, or eligibles who have been appointed and granted leaves or certified as provided in this section.

All leaves of absence granted under rule 31.2 of the civil service commission are hereby ratified and approved.

For the purposes of certifications, appointments, leaves or any other matters concerning the rights of persons who are serving in the armed forces of the United States or the State of California, the provisions of this section shall be retroactive to September 16, 1940, and any persons heretofore granted military leaves for any purpose other than to enter the armed forces of the United States shall be deemed to have been granted war effort leaves by the civil service commission in accordance with the provisions of this section.

The civil service commission, by rule and subject to the approval of the board of supervisors by ordinance, shall provide for leaves of absence due to illness or disability, which leave or leaves may be cumulative, if not used as authorized, provided that the accumulated unused period of sick leave shall not exceed six (6) months, regardless of length of service, and provided further that violation or abuse of the provisions of said rule and ordinance by any officer or employee shall be deemed an act of insubordination and inattention to duties. *Ratified by the Legislature,* June 9, 1944.

Transfer of Disabled

Section 156. When a permanent civil service employee, other than a member of the fire department and police department, who has served not less than three (3) years in his position, has become incapable through advanced age, accident or other disability, of performing the duties of his position, the civil service commission may, with the consent of the appointing officer or appointing officers involved, transfer him to a position within his capacities to perform, whether or not within the classification for which he qualified for appointment, but such position shall not be in a classification having a higher compensation schedule than the one from which he is transferred, and his compensation shall not thereafter be increased beyond the maximum salary for the classification to which such employee is transferred, nor in any event shall his salary be increased to equal the salary such employee would have received had he remained in his former position; provided, however, that a permanent employee who has become incapable of resuming his former position through disability incurred while on active service with the armed forces while on military leave may upon application after his discharge from military service be transferred under the provisions of this section, regardless of his length of service.

Employees transferred under the provisions of this section may, upon recovery from the disability, and with the consent of the civil service commission, return to a vacancy in their former classification.

Positions filled under the provisions of this section shall not be subject to salary standardization, but the salaries thereafter shall be fixed by the civil service commission within the limitations herein provided. The civil service commission shall make rules to carry out the intent of this section and such rules shall govern all transfers made under the provisions of this section. *Ratified by the Legislature,* June 9, 1944.

Continuous Service

Section 161. Continuous service shall be defined by the board of supervisors, but the absence of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

Any contributing member of the retirement system who is absent after September 14, 1940, from the service of the city and county, by reason of service in the armed forces of the United States, or the State of California or service on ships operated by or for the United States government, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in the line of duty with said armed forces or on said ships when such disability extends beyond such period, or any service connected with the war effort for which leaves of absence shall be authorized pursuant to section 153 of the charter, or any such member who is absent after September 14, 1940, from the service of the city and county, by reason of an order of the government of the United States or the State of California, or by lawful order of any of the departments or officers of said governments, may elect to contribute to said retirement system while serving in said forces or on said ships, and at times and in a manner to be fixed by the retirement board, amounts equal to the contributions which he would have made from the beginning of said absence, or from the date of said election, had he remained on duty in the position he occupied and at the compensation being earned by him immediately prior to the beginning of said absence. The city and county shall contribute to the retirement system on account of any member who exercises affirmatively the election provided herein, and on account of any non-contributing member who is absent by reason of service stated in this paragraph, in the same manner and amounts as if said member were not absent in said service. If the member's base pay in said service shall be less than one hundred dollars per month, city and county, in lieu of said member, shall contribute also said amount which the member otherwise would have been required to contribute under said election, and said contributions shall be administered as if made by said member.

It is the purpose of the paragraph next preceding, to place a member who is absent from the service of the city and county by reason of service as set forth in paragraph next preceding, and who contributes or for or on account of whom contributions are made as herein provided, in the same status under the retirement system, as that which he would have occupied had he remained on duty in the position he occupied immediately prior to the beginning of said absence and charter and ordinance provisions governing the retirement system, shall apply

to said member with like effect as if he were not absent. If, however, a member who exercises affirmatively the election provided herein, shall default in any of the contributions due to the retirement system under said election, and if said contributions are not made for him, then he shall be considered absent from service during the period covered by said defaulted contributions, the same as if he had not exercised affirmatively said election, and he shall not receive credit as service for the city and county, for the period covered by said defaulted contributions; but the absence during said period of default shall not break the continuity of service required of such member to entitled him to a pension or retirement allowance, as provided under the retirement system.

Any member of the retirement system who is absent from the service of the city and county by reason of service set forth in the second paragraph of this section, and who does not affirmatively exercise election herein provided, shall not receive credit as service for the city and county, for the period of such absence, but the absence shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance as provided under the retirement system. *Ratified by the Legislature,* January 31, 1944.

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